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A  
D I G E S T  
OF  
LEGISLATIVE ENACTMENTS,  
RELATING TO THE  
SOCIETY OF FRIENDS,  
COMMONLY CALLED QUAKERS,  
IN ENGLAND;  
WITH OCCASIONAL OBSERVATIONS AND NOTES.

BY  
JOSEPH DAVIS, CONVEYANCER.

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## P R E F A C E.

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SINCE the publication of the first Edition of the "Digest," a period of twenty-eight years has elapsed, during which so many important changes have been made by the legislature in some of the laws more especially affecting the Society of Friends, particularly those relative to the Commutation of Tithes into Rent-charges, the mode of recovering demands of an Ecclesiastical nature, the extension of the operation of the Affirmation Act, the repeal of the Test and Corporation Acts, and the consequent admission of Friends to Offices, as well as those relating to Marriage, and the Registration of Births, Marriages, and Deaths, as to render a new Edition needful, and which has been undertaken by the Editor at the request of the "Meeting for Sufferings," a meeting which acts as a standing Committee of the Yearly Meeting for the general concerns of the Society of Friends, and is in fact the executive body of the Society, and the manuscript has been inspected by a committee of that meeting appointed for the purpose, to whom the Editor acknowledges himself indebted for some improvements derived from their suggestions.

The sufferings of the people called Quakers, on account of their peculiar religious testimonies, were in the early times of the Society, frequent and severe, not only in the loss of property, but in long protracted imprisonment terminating, in many instances, only with life. Several laws, enacted in the reign of Charles II. against nonconformists, one of which at least (13 and 14 Charles II. c. 1,) was peculiarly directed against this people, were made the means of their being long harassed and persecuted, and they even suffered by acts that were passed against "Popish Recusants." At the Revolution of 1688, these oppressive proceedings were suspended, principally by means of the Act of Toleration, 1 W. and M. c. 18, and by the act 52 Geo. III. c. 155, several of the statutes alluded to were entirely abrogated; but even then the members of this Society remained liable to prosecution in the Exchequer and Ecclesiastical Courts, when upon a demand being made on them for tithes or other Ecclesiastical payments, and refused, either a disposition inconsistent with the spirit of Toleration, or the want of proper information, led the claimant into the erroneous choice of adopting the more vexatious and expensive, instead of the milder and less chargeable mode of recovery; for the legislature had made ample provision, in general, for proceedings in these cases, both less

oppressive to the person on whom the claim was made, and more easy to the claimant himself; as by the act 7 and 8 Will. III. c. 34, which provides, (beyond what its title imports,) for the recovery of "Tithes and Church Rates" from those called Quakers, and by the act 1 Geo. I., Stat. 2, c. 6, by which the provisions in it are made applicable to "all customary payments due to clergymen," both of which acts are to be considered as one law, provision is made for the recovery of all Ecclesiastical demands in a summary way before Justices of the Peace, where the amount shall not exceed £10. (extended by the act of 53 Geo. III. c. 127, to £50.) and the costs are restricted to ten shillings, whereas processes in the Exchequer were, from the great length to which they might have been protracted, exceedingly expensive; and if the prosecutor were ultimately successful, a great part of the sum originally demanded, and sometimes the whole of it, was absorbed in extra costs, which were not allowed to be charged on the defendant. In the case of Markham v. Wormall and others, previously to the imprisonment of the Friends, the plaintiff's costs exceeded his taxed costs £56. 14s. 11d. This sum would have been much increased by the expenses occasioned in procuring the commitment of the Friends, and their conveyance to prison, had not the plaintiff, (under

the title of "subsequent taxed costs,") caused them, to the amount of £61. 19s. 3d. although not taxed, to be levied. It is supposed that if taxed, a large proportion would have been disallowed, which, in addition to incidental expenses, would very probably have increased the extra costs of the plaintiff, though ultimately successful, to £100, no small part of his demand: which as well as several years delay, might have been avoided, by proceeding before the Justices, under 7 and 8 W. & M. c. 34; and in the case of *Wray v. King and others*, the plaintiff's costs, to the decree, and the subsequent costs, including costs of sequestration and sale, amounted to £182. 19s. 6d, which were taxed at £150. 11s. 9d, leaving extra costs to be paid by the plaintiff £32. 7s. 9d, so that of £41. 13s. 9d. decreed due to the plaintiff, he had to receive on this account only £9. 6s, exclusive of £3. costs of allowing exceptions; and from information which might be depended upon, it was expected that this sum of £9. 6s. would scarcely prove sufficient to pay other costs incurred by the plaintiff in this cause, not included in the above, but which he was liable to pay to his solicitor. Thus the plaintiff, in a cause where no unusual proceedings were had, after a delay of upwards of five years and a half, though successful, lost nearly, if not the whole, of his debt in extra costs.



In the Ecclesiastical Courts, the proceedings were still more ruinous, especially as prosecutions there must have ultimately terminated either in the violation of the conscience of the sufferer, or in his imprisonment for life, as well as to the great loss of the prosecutor, since neither the sum claimed, nor the costs, could be obtained by the final judgment of these courts.

Now, however, Friends are almost entirely relieved from these oppressive proceedings by the Acts 5 and 6 Will. IV. c. 74, and 4 and 5 Vict. c. 36, which provide that no suit or other proceeding shall be instituted in any court in England or Ireland for any Ecclesiastical demands under the value of £50, except where the actual title shall be in question, but that all complaints touching the same shall be heard and determined only under the provisions of the acts 7 and 8 Will. III. c. 34, and 53 Geo. III. c. 127; and by the same acts, imprisonment of Friends on account of Ecclesiastical demands, is wholly abolished. Friends are further relieved by the Act 7 and 8 Geo. IV. c. 17, which extends to church rates and tithes, the limitation in the Act 57 Geo. III. c. 93, of the costs of distraint where the amount of demand is under £20, and on a case submitted to Sir Thomas (now Lord) Denman, and Sir James Scarlett, (afterwards Lord Abinger,) they

gave it as their opinion that under the 7 and 8 Will. III. c. 34, and 53 Geo. III. c. 127, several defaulters may be included in one warrant of distress, the demands being of a similar nature, and the aggregate amount not exceeding £50 ; and still further relief is afforded to Friends in common with others, by the commutation of tithes into an actual charge on the land, the recovery of which is simple and inexpensive, being precisely the same as every landlord has for the recovery of rent from his tenant.

In reference to the affirmation, it may be observed that the form of it as new modelled by 3 and 4 Will. IV. c. 49, now stands thus, " I, A. B. being one of the people called Quakers, [or, one of the persuasion of the people called Quakers, as the case may be,] do solemnly, sincerely and truly declare and affirm ;" and by the same act, the form of the affirmation to be taken by Friends instead of the oath of abjuration is given. By 22 Geo. II. c. 46, there was a general enactment that in all cases where by law an oath then was or should be required, the affirmation of any of the people called Quakers, should although no express provision be made for the purpose, be allowed and taken instead of such oath, but with the continuance of the exception which occurs in former acts, as to criminal cases, serving on juries, or bearing any office or place of profit in the Government.

After which some further extent was, from time to time, given to the affirmation, by introducing into various Acts relating to frauds, an allowance of it in several *penal* cases, and by 15 Geo. III. c. 39, it was extended to all cases where any penalty was directed to be levied or distress to be made by any Act then in force, or thereafter to be made, for the purpose of levying such penalties, or making such distresses. By the Act 9 Geo. IV. c. 32, the affirmation is made available for the giving of evidence in any case, criminal or civil, and by the Act 3 and 4 Will. IV. c. 49, every person of the persuasion of the people called Quakers, is permitted to make the affirmation instead of taking an oath, in all places and for all purposes where an oath is or shall be required, and that without any exception whatever.

With respect to demands of a military nature, the well known scruples of this Society on the subject of war, (their repugnance to which they believe to be dictated solely by the mild and peaceable principles of the gospel,) with their uniform readiness to submit to the penalties of the law, rather than violate their testimony against bearing arms, have been duly appreciated by the legislature. Dispensing in all cases with the personal service of Quakers, so called, in this way, it has devised the means of their incurring a forfeiture of property, equal to the supposed

disadvantage to the state ; and this in a manner in which they are only passively concerned. Besides the acts relating to military service contained in the " Digest," an Act was made, 1 Geo. IV. c. 24, for the more effectual preservation of the peace by enforcing the duties of watching and warding, by which provision was made in case a person, one of the persuasion of the people called Quakers, who should be appointed to watch or to ward, should neglect or refuse to appear, at the time and place appointed, such person should not be liable to any fine, but the justices should hire a substitute and levy the expense on the goods of such person.

It is an interesting subject to trace the history of the progress of intelligence, and of more enlightened views in the relief which has gradually been granted by the Legislature of this country, through a period of a century and a-half, to the Society of Friends, for the removal or alleviation of their peculiar trials and difficulties arising from their conscientious scruples. The present position of the Society, as regards the Laws peculiarly affecting its members, ought to induce feelings of gratitude to the Legislature, and a ready compliance with its laws and institutions, in all cases where conscience is not violated; and the Compiler thinks he cannot better conclude this Preface than by adopting the words of a short address

of the "Meetings for Sufferings," which accompanied copies of certain clauses affecting the Society, in a military Act passed in 1803 :

"The Meeting for Sufferings, in sending forward these extracts and this information, thinks it right to advert to the lenity which on this occasion, as well as on former ones, has been shown to the Society by the Legislature. It is a powerful call on us to continue vigilant in conducting ourselves as dutiful and peaceable subjects, and it is necessary to give great heed that our scruples may be and appear to be, the consequence of a sense of religious duty. In this view, it highly behoves us to take care that our whole conduct be such as becometh the gospel. This will tend to support the mind in difficulty, and awaken thankfulness to the Almighty for the benefits we receive, and also gratitude to those by whose means they are conferred."

*Bristol, Twelfth Month, 1848.*



# CONTENTS.

---

	PAGE.
MEETINGS and Meeting Houses . . . . .	1
OATHS AND AFFIRMATION . . . . .	24
OFFICES . . . . .	49
TITHES AND OTHER ECCLESIASTICAL DEMANDS . . . . .	56
TITHE RENT CHARGES . . . . .	72
THE MILITIA AND MILITARY SERVICE . . . . .	82
————— Regular Militia . . . . .	—
————— Militia of the Tower Hamlets . . . . .	97
————— Militia of the City of London . . . . .	98
————— Miners in Cornwall and Devon . . . . .	103
————— Annual Training . . . . .	104
————— Local Militia . . . . .	107
————— Conveyance of Soldiers' and Sailors' Baggage, &c. . . . .	124
MARRIAGE . . . . .	127
REGISTERS . . . . .	137
NON-PAROCHIAL-REGISTERS . . . . .	153
CHARITIES . . . . .	158
CHURCHWARDENS . . . . .	166
MISCELLANEOUS . . . . .	167
————— Discipline or Church Government . . . . .	167
————— Fast-days, &c. . . . .	170
LOCAL PROVISIONS . . . . .	172





A T A B L E  
OF THE  
P U B L I C G E N E R A L A C T S,  
C I T E D O R R E F E R R E D T O I N T H E D I G E S T.

Reign and Year.	Subject and Head under which the same is noticed.	Page.
16 Richard II. . . . c.	5. Præmunire, <i>Oaths and Affirmation</i> }	30
27 Henry VIII. . . c.	20. Tithes, <i>Tithes, &amp;c.</i> . . . .	62
32 Henry VIII. . . c.	7. Tithes, <i>Tithes, &amp;c.</i> . . . .	63
2 & 3 Edward VI. c.	13. Tithes, <i>Tithes, &amp;c.</i> . . . .	63
1 Elizabeth, . . . c.	1. Oaths, <i>Oaths and Affirmation</i>	25
1 Elizabeth, . . . c.	2. Common Prayer, <i>Meetings</i> . .	2
5 Elizabeth, . . . c.	1. Queen's Power, <i>Meetings</i> . .	8
23 Elizabeth, . . . c.	1. Obedience of the People, } <i>Meetings</i> }	1
29 Elizabeth, . . . c.	6. Obedience of the People, } <i>Meetings</i> }	1
35 Elizabeth, . . . c.	1. Obedience of the People, } <i>Meetings</i> }	4
3 James I. . . . c.	4. Popish Recusants, <i>Meetings</i> . .	2
	————— <i>Oaths and</i> } <i>Affirmation</i> }	2, 25
3 James I. . . . c.	5. Popish Recusants, <i>Meetings</i> . .	2
7 James I. . . . c.	6. Oaths, <i>Oaths and Affirmation</i>	24, 25
13 & 14 Charles II. c.	1. Quakers, <i>Meetings</i> . . . .	9, 14
	————— <i>Offices</i> . . . .	49
17 Charles II. . . . c.	2. Nonconformists, <i>Meetings</i> . .	14
22 Charles II. . . . c.	1. Seditious Conventicles, <i>Meetings</i>	4, 14

Reign and Year.	Subject and Head under which the same is noticed.	Page.
25 Charles II. . . . c.	2. Popish Recusants, <i>Meetings</i> ..	2
	————— <i>Oaths and Offices</i> } 30, 49	
30 Charles II. . . . st.	2. Papists and Parliament, } <i>Meetings</i> }	2, 3, 7
	————— <i>Oaths and Affirmation</i> }	28
1 William & Mary, c.	1. Oaths, <i>Meetings</i> .. . . .	3
1 William & Mary, c.	8. ——— <i>Oaths &amp; Affirmation.</i> ..	25, 30
1 William & Mary, c.	18. Toleration, <i>Meetings</i> , &c. ..	1, 13
	————— <i>Oaths</i> , &c. . . .	29, 31
	————— <i>Tithes</i> , &c. . . .	56
7 & 8 William III. c.	6. Tithes, <i>Tithes</i> , &c. . . .	66
7 & 8 William III. c.	24. Practisers of Law, <i>Oaths</i> , &c. . .	29
7 & 8 William III. c.	27. Oaths, <i>Oaths</i> , &c. . . . .	30
7 & 8 William III. c.	34. Affirmation, <i>Oaths</i> , &c. . . . .	32
	————— <i>Tithes</i> , &c. . . . .	56, 61
13 William III. . . . c.	4. Affirmation, <i>Oaths</i> , &c. . . . .	34
6 Ann, . . . . c.	14. Oaths, <i>Oaths</i> , &c. . . . .	34
6 Ann, . . . . c.	23. Elections, &c. <i>Oaths</i> , &c. . . .	35
10 Ann, . . . . c.	2. Toleration, <i>Meetings</i> . . . .	12
1 George I. . . . c.	6. Affirmation and Tithes, } <i>Oaths</i> , &c. }	36
	————— <i>Tithes</i> , &c. . . . .	58, 61
6 George I. (Ireland) ..	Dissenters, <i>Meetings</i> , &c. . . .	20
8 George I. . . . c.	6. Affirmation, <i>Oaths</i> , &c. . . .	37
9 George II. . . . c.	36. Mortmain, <i>Meetings</i> , <i>Charities</i> 23, 160	
16 George II. . . . c.	30. Oaths, <i>Offices</i> . . . . .	49
22 George II. . . . c.	46. Affirmation, <i>Oaths</i> , &c. . . .	42
26 George II. . . . c.	33. Marriages, <i>Marriage</i> . . . .	127
27 George II. . . . c.	20. Distresses by Warrant, } <i>Tithes</i> , &c. }	60
6 George III. . . . c.	53. Oaths, <i>Oaths</i> , &c. . . . .	44

A TABLE.

xvii

Reign and Year.	Subject and Head under which the same is noticed.	Page.
15 George III. . . . . c.	39. Oaths, &c. <i>Oaths, &amp;c.</i> . . . .	42
19 George III. . . . . c.	44. Dissenters, <i>Meetings, &amp;c.</i> . . . .	20
26 George III. . . . . c.	107. Militia in England, <i>Militia</i> } <i>of the Tower Hamlets</i> }	97
37 George III. . . . . c.	25 { <i>Militia, Militia of the Tower</i> } & 75. { <i>Hamlets</i> }	97
39 George III. . . . . c.	79. Sedition and Treason, <i>Meet-</i> } <i>ings, &amp;c.</i> }	16
42 George III. . . . . c.	72. Miners, <i>Miners in Cornwall</i> } <i>and Devon</i> }	103
42 George III. . . . . c.	90. Militia in England, <i>Regular</i> } 82, 86, <i>Militia</i> } 93	
	<i>Militia of the Tower Hamlets</i> } 97	
42 George III. . . . . c.	91. Militia in Scotland, <i>Regular</i> } <i>Militia</i> }	82
43 George III. . . . . c.	50. Militia in England, <i>Regular</i> } 86, 93 <i>Militia</i> }	
46 George III. . . . . c.	90. Training, <i>Annual Training.</i> . . . .	104
46 George III. . . . . c.	91. Militia in England, <i>Regular</i> } <i>Militia</i> }	84
47 George III. . . . . c.	71. _____	85
52 George III. . . . . c.	38. Local Militia in England, } <i>Local Militia</i> }	107
52 George III. . . . . c.	68. Local Militia in Scotland, } <i>Local Militia</i> }	107
52 George III. . . . . c.	102. Charitable Donations, <i>Cha-</i> } <i>rities</i> }	158
52 George III. . . . . c.	155. Religious Worship, <i>Meetings,</i> } <i>&amp;c.</i> }	14
53 George III. . . . . c.	28. Local Militia in England, } <i>Local Militia</i> }	123
53 George III. . . . . c.	127. Ecclesiastical Courts, <i>Tithes, &amp;c.</i> 61, 65	
53 George III. . . . . c.	160. Dissenters, <i>Meetings, &amp;c.</i> . . . .	20
57 George III. . . . . c.	19. Seditious Meetings, <i>Meet-</i> } <i>ings, &amp;c.</i> }	15
57 George III. . . . . c.	70. Dissenters, <i>Meetings, &amp;c.</i> . . . .	20

Reign and Year.	Subject and Head under which the same is noticed.	Page.
57 George III. . . . . c.	93. Distresses, <i>Tithes</i> . . . . .	67, 69
58 George III. . . . . c.	91. Charities for Education, <i>Charities</i> } . . . . .	158
59 George III. . . . . c.	81. Charities for Education, <i>Charities</i> } . . . . .	159
1 George IV. . . . . c.	100. Militia of London, <i>Militia of the City of London</i> } . . . . .	98
3 George IV. . . . . c.	75. Marriages, <i>Marriage</i> . . . . .	127
3 George IV. . . . . c.	126. Turnpike Roads, <i>Meetings</i> . . . . .	17
4 George IV. . . . . c.	17. Marriages, <i>Marriage</i> . . . . .	127
4 George IV. . . . . c.	76. Marriages, <i>Marriage</i> . . . . .	127, 135
5 George IV. . . . . c.	58. Charities, <i>Charities</i> . . . . .	159
5 George IV. . . . . c.	68. Marriages, <i>Marriage</i> . . . . .	127
7 & 8 George IV. . . . . c.	17. Distresses, <i>Tithes</i> . . . . .	67
9 George IV. . . . . c.	17. Test Act, <i>Offices</i> . . . . .	49, 51, 52, 53
9 George IV. . . . . c.	32. Evidence, <i>Affirmation</i> . . . . .	42
9 George IV. . . . . c.	85. Mortmain, <i>Meetings</i> . . . . .	23
9 George IV. . . . . c.	85. Mortmain, <i>Charities</i> . . . . .	163
10 George IV. . . . . c.	24. Annuities, <i>Registers</i> . . . . .	152
10 George IV. . . . . c.	57. Charities, <i>Charities</i> . . . . .	159
1 & 2 William IV. . . . . c.	34. Charities, <i>Charities</i> . . . . .	159
3 & 4 William IV. . . . . c.	30. Poor Rates, <i>Meetings</i> . . . . .	19
3 & 4 William IV. . . . . c.	49. Affirmation, <i>Oaths, &amp;c.</i> . . . . .	43, 34
4 & 5 William IV. . . . . c.	76. Poor Laws, <i>Tithes, &amp;c.</i> . . . . .	67
5 & 6 William IV. . . . . c.	28. Offices, <i>Offices</i> . . . . .	49
5 & 6 William IV. . . . . c.	71. Charities, <i>Charities</i> . . . . .	159
5 & 6 William IV. . . . . c.	74. Tithes, <i>Tithes, &amp;c.</i> . . . . .	69, 71
5 & 6 William IV. . . . . c.	76. Corporations, <i>Offices</i> . . . . .	50, 51, 52
6 & 7 William IV. . . . . c.	71. Tithe Commutation, <i>Tithes</i> . . . . .	72, 77
6 & 7 William IV. . . . . c.	85. Marriages, <i>Marriage</i> . . . . .	128, 135
6 & 7 William IV. . . . . c.	86. Registration, <i>Registers</i> . . . . .	137
6 & 7 William IV. . . . . c.	104. Corporation, <i>Offices</i> . . . . .	51



## LOCAL ACTS.

---

	<i>Page.</i>
Acts containing Provisions for exempting Friends from being Collectors of Church Rates . . . . .	173
Acts containing Provisions for exempting Friends from being Churchwardens, &c. . . . .	177
Acts relating to the Compounding for Parochial Rates . . . . .	180

# A DIGEST

OF

## LEGISLATIVE ENACTMENTS, &c.

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### MEETINGS AND MEETING HOUSES.

By an act passed in the 1st year of William and Mary, stat. 1, c. 18, intituled, “An act for exempting their Majesties’ Protestant subjects, dissenting from the Church of England, from the penalties of certain laws;” (*commonly called the Toleration Act*) it is by sect. 2 enacted, that neither the statute made in the three and twentieth year of the reign of the late Queen Elizabeth, intituled, “An act to retain the Queen’s Majesty’s subjects in their due obedience;”<sup>\*</sup> nor the statute made in the twenty-ninth year of the said Queen, intituled, “An act for the

1 W. and M.  
s. 1, c. 18,  
several laws  
suspended.

23 Eliz. c. 1,  
repealed.

29 Eliz. c. 6,  
repealed.

\* By 7 and 8 Vict. c. 102, this act is repealed, and also so much and such parts of 29 Eliz. c. 6; 1 Eliz. c. 2; 3 Jas. I. cc. 4 and 5; and 25 Chas. II. c. 2, as contain penal Enactments against Roman Catholics; and by 9 and 10 Vict. c. 59, the acts of 29 Eliz. c. 6; 1 Eliz. c. 2; and 3 Jas. I. c. 4, are wholly repealed.



more speedy and due execution of certain branches of the statute made in the three and twentieth year of the Queen's Majesty's reign," (*viz. the aforesaid act*;) nor that branch or clause of a statute made in the first year of the reign of the said Queen, intituled, "An act for the uniformity of Common Prayer and service in the Church, and administration of the Sacraments;" whereby all persons, having no lawful or reasonable excuse to be absent, are required to resort to their Parish Church or Chapel, or some usual place where the Common Prayer shall be used, upon pain of punishment by the censures of the Church, and also upon pain that every person so offending, shall forfeit for every such offence, twelve pence; nor the statute made in the third year of the reign of the late King James I. intituled, "An act for the better discovering and repressing Popish Recusants;" nor that other statute made in the same year, intituled, "An act to prevent and avoid dangers which may grow by Popish Recusants;" nor any other law or statute of this realm, made against Papists or Popish Recusants, except the statute made in the five and twentieth year of King Charles II, intituled, "An act for preventing dangers which may happen from Popish Recusants;" and except also the statute made in the thirtieth year of the said King Charles

1 Eliz. c. 2,  
repealed,  
vide ante.

3 Jas. I. c. 4,  
repealed,  
vide ante.

3 Jas. I. c. 5,  
partially  
repealed,  
vide ante.

Exception.

25 Chas. II.  
c. 2, partially  
repealed,  
vide ante.

30 Chas. II. st.  
2, partially  
repealed.



II, intituled, “ An act for the more effectual preserving the King’s person and government, by disabling Papists from sitting in either House of Parliament,”\* shall be construed to extend to any person or persons dissenting from the Church of England, that shall take the oaths mentioned in a statute made this present Parliament, intituled, “ An act for removing and preventing all questions <sup>1 W. and M. c. 1.</sup> and disputes concerning the assembling and sitting of this present Parliament ;” and shall make and subscribe the declaration mentioned in a statute made in the thirtieth year of the reign of King Charles II, intituled, “ An act to prevent Papists <sup>30 Chas. II. st 2, partially repealed.</sup> from sitting in either House of Parliament ;” which oaths and declarations the justices of peace, at the general sessions of the peace, to be held for the county or place where such person shall live, are hereby required to tender and administer to such <sup>Taking the declaration to be registered.</sup> persons as shall offer themselves to take, make, and subscribe the same ; and thereof to keep a register : and likewise none of the persons aforesaid, shall give or pay, as any fee or reward, to any officer or officers belonging to the court aforesaid, above the sum of sixpence, nor that more than once, for his <sup>Fee.</sup>

\* By 9 and 10 Vict. c. 59, so much of this act as relates to the penalties on Popish Recusants for coming into the King’s or Queen’s presence is repealed.

or their entry of his taking the said oaths, and making and subscribing the said declaration; nor above the further sum of sixpence for any certificate of the same, to be made out and signed by the officer or officers of the said court.

35 Eliz. c. 1,  
repealed.

22 Chas. II.  
c. 1.

*repealed vid.  
post.*  
Ecclesiastical  
Court.

Sect. 4. All and every person and persons, that shall as aforesaid, take the said oaths, and make and subscribe the declaration aforesaid, shall not be liable to any pains, penalties, or forfeitures, mentioned in an act made in the five and thirtieth year of the reign of the late Queen Elizabeth, intituled, “An act to retain the Queen’s Majesty’s subjects in their due obedience;”\* nor in an act made in the two and twentieth year of the reign of the late King Charles II. intituled, “An act to prevent and suppress seditious conventicles;” nor shall any of the said persons be prosecuted in any Ecclesiastical Court, for or by reason of their non-conforming to the Church of England.

Private Meet-  
ings excluded.

Sect. 5. If any assembly of persons dissenting from the Church of England, shall be had in any place for religious worship, with the doors locked, barred, or bolted, during any time of such meeting together, all and every person or persons that shall

\* By 7 and 8 Vict. c. 102, this act is repealed.

come to or be at such meeting, shall not receive any benefit from this law, but be liable to all the pains and penalties of all the aforesaid laws recited in this act, for such their meeting, notwithstanding his taking the oaths, and his making and subscribing the declaration aforesaid.\*

\* Under this clause it may not be improper to notice a case, *Finch v. Batger* and others, tried at Guildhall, London, before Macdonald, C. B. which establishes the right of Friends to hold their meetings of discipline select, to the exclusion of all who are not members of the Society; a distinction being made between meetings for religious worship and those for discipline; inasmuch as those for discipline having for their object the church government of the Society, are not considered as meetings for religious worship, notwithstanding there may be occasionally praying and preaching in the same.

Finch had been disowned by a Monthly Meeting in the year 1797, and submitted to the judgment, without appeal. In the Twelfth Month 1803, he attended the meeting for worship at Devonshire House previous to the Quarterly Meeting, and remained in the house after the meeting for worship was concluded: he was repeatedly requested to withdraw, which he positively refused, and the Quarterly Meeting to avoid having recourse to violence, opened the meeting, and adjourned to the 16th of the ensuing month. Finch repeatedly applied for admission into the adjourned meeting, and being refused, attempted to force his way, in which he was resisted, and in one or two instances taken hold of by the coat; and on the 27th of Third Month 1804, he again applied for admittance into the Quarterly Meeting, but was refused; whereupon, in Easter Term, 1804, he brought an action in the Exchequer of Pleas, against Batger and others, for an assault and false imprisonment, and for preventing him from entering into a building then open for religious worship being had therein.

The defendants, by their plea in Trinity Term, denied the trespass, and alleged that in the said building, meetings were held sometimes for worship, and at other times for discipline; and that at the time aforesaid, the defendants with other persons being members of the Society, assembled for holding a meeting for discipline, and seeing the plaintiff endeavouring to enter, he not being a member, did request him to desist, but he persisting, they laid their hands upon him, and prevented him. To which the plaintiff in Hilary Term, 1805, by his replication replied, that at the time mentioned the building was open

Justice of  
peace may  
tender the  
oaths.

Penalty for  
refusal.

Sect. 12. Every justice of the peace may at any time hereafter require any person that goes to any meeting for exercise of religion, to make and subscribe the declaration aforesaid, and also to take the said oaths or declaration of fidelity hereinafter mentioned, in case such person scruples the taking an oath; and upon refusal thereof, such justice of the peace is hereby required to commit such person to prison, without bail or mainprize, and to certify the name of such person to the next general or quarter sessions of the peace, to be held for that county, city, town, part, or division, where such person then re-

for religious worship; upon which issue was joined, and the matter in dispute was reduced to the question, whether the meetings at the times mentioned were open for religious worship.

On the 23rd of Second Month 1805, the cause came on for trial, and the Chief Baron in the first instance proposed a reference, but which was not agreed to on the part of the defendants: after the plaintiff's case had been stated, the Chief Baron observed, "the question is, what was the primary object on that day, not what the buildings were for; I take this meeting to be entirely for the purpose of church government, and if so, it is a place of business at that time, though it may be interspersed with acts of worship." After three of the plaintiff's witnesses had been examined, the C. B. observed to Sergeant Williams, (the plaintiff's leading counsel,) "Brother Williams, I think your case is desperate,—your own witnesses have proved you out of court." The Sergeant replied, "My Lord, I could call more witnesses, but were I to call all the Quakers in London, I cannot alter facts;" certainly not," replied the Baron, "you have done every thing on your part." And then directed the plaintiff to be called: being clearly of opinion that the object of the meeting was proved by the plaintiff's own witnesses to be temporal business, and that the building at the time in question, was not open for religious worship.

The plaintiff was accordingly nonsuited.

MS. Report in possession of the Meeting for Sufferings.

sides ; and if such person so committed, shall upon a second tender, at a general or quarter sessions, refuse to make and subscribe the declaration aforesaid, such person refusing shall be then and there recorded, and he shall be taken thenceforth to all intents and purposes, for a Popish Recusant convict, and suffer accordingly, and incur all the penalties and forfeitures of all the aforesaid laws.

Sect. 13. Persons, Dissenters from the Church Friends how exempt. of England, who scruple the taking any oath, shall make and subscribe the aforesaid declaration\* and also the declaration of fidelity following :—

\* The declaration referred to is contained in the before-mentioned act 30 Charles II. and is as follows :

“ I, A. B. do solemnly and sincerely in the presence of God, profess, testify, and declare, that I do believe, that in the Sacrament of the Lord’s Supper, there is not any transubstantiation of the elements of bread and wine into the body and blood of Christ, at or after the consecration thereof by any person whatsoever, and that the invocation or adoration of the Virgin Mary, or any other saint, and the sacrifice of the mass, as they are now used in the Church of Rome, are superstitious and idolatrous. And I do solemnly in the presence of God, profess, testify, and declare, that I do make this declaration, and every part thereof, in the plain and ordinary sense of the words read unto me, as they are commonly understood by English Protestants, without any evasion, equivocation, or mental reservation whatsoever, and without any dispensation already granted me for this purpose by the Pope, or any other authority or person whatsoever, or without any hope of any such dispensation from any person or authority whatsoever, or without thinking that I am or can be acquitted before God or man, or absolved of this declaration, or any part thereof, although the Pope, or any other person or persons, or power whatsoever, should dispense with or annul the same, or declare that it was null and void from the beginning.”

*The form of this declaration has been since altered, and it now stands as fixed by the 8 Geo. I. c. 6, see Oaths.*

And shall subscribe a profession of their christian belief in these words:

I, A. B. profess faith in God the Father, and in Jesus Christ his Eternal Son, the true God, and in the Holy Spirit, one God blessed for evermore; and do acknowledge the Holy Scriptures of the Old and New Testament to be given by divine inspiration.

Which declarations and subscriptions shall be made and entered of record, at the general quarter sessions of the peace for the county, city, or place where every such person shall then reside. And every such person that shall make and subscribe the two declarations and profession aforesaid, being thereunto required, shall be exempted from all the pains and penalties of all and every the aforementioned statutes made against Popish Recusants, or Protestant Nonconformists; and also from the penalties of an act made in the fifth year of the reign of the late Queen Elizabeth, intituled “ An act for the assurance of the Queen’s royal power over all estates

5 Eliz. c. 1,  
repealed.



and subjects within her dominions,"\* for or by reason of such persons not taking or refusing to take the oath mentioned in the said act; and also from the penalties of an act made in the thirteenth and <sup>13 & 14 Chas. II. c. 1,</sup> fourteenth years of the reign of King Charles II., intituled, "An act for preventing mischiefs that may <sup>repealed vid. post.</sup> arise by certain persons called Quakers refusing to take lawful oaths;" and enjoy all other the benefits, privileges, and advantages, under the like limitations, provisoes, and conditions, which any other dissenters shall or ought to enjoy by virtue of this act.†

Sect. 14. In case any person shall refuse to take <sup>How purged after refusing to take the oaths.</sup> the said oaths when tendered to them, which every justice of the peace is hereby empowered to do, such person shall not be admitted to make and subscribe the two declarations aforesaid, though required there-

\* By 7 and 8 Vict. c. 102, so much of this act as rendered any person violating its provisions liable to treason, or the statute of præmunire is repealed; and by 9 and 10 Vict. c. 59, this act is wholly repealed.

† By the Indemnity Acts, which are now passed annually almost as a matter of course, all persons who ought to have taken certain oaths and subscribed certain declarations required by various acts, and amongst which is mentioned the 8 Geo. I. c. 6, and which refers to 1 W. & M. c. 18, but who have neglected or omitted so to do, are indemnified against all penalties, forfeitures, incapacities, and disabilities incurred by such neglect or omission, by taking the said oaths and subscribing the said declarations on or before a particular day therein mentioned, and before which day the next Indemnity Act is generally passed.

unto, either before any justice of the peace, or at the general or quarter sessions, before or after any conviction of Popish Recusancy as aforesaid, unless such person can within thirty-one days after such tender of the declarations to him, produce two sufficient Protestant witnesses, to testify upon oath, that they believe him to be a Protestant Dissenter, or a certificate under the hands of four Protestants, who are conformable to the Church of England, or have taken the oaths and subscribed the declaration above-mentioned; and shall also produce a certificate under the hands and seals of six or more sufficient men, of the congregation to which he belongs, owning him for one of them.

Sect. 15. Until such certificate, under the hands of six of his congregation, as aforesaid, be produced, and two Protestant witnesses come to attest his being a Protestant Dissenter; or a certificate under the hands of four Protestants, as aforesaid, be produced, the justice of the peace shall, and hereby is required to take a recognizance with two sureties in the penal sum of fifty pounds, to be levied of his goods and chattels, lands and tenements, to the use of the King and Queen's Majesties, their heirs and successors, for his producing the same; and if he cannot give such security, to commit him to prison,



there to remain, until he has produced such certificates, or two witnesses as aforesaid.

Sect. 16. All the laws made and provided for Laws for Divine Service in force. the frequenting Divine Service on the Lord's Day, commonly called Sunday, shall be still in force, and executed against all persons that offend against the said laws, except such persons come to some congregation or assembly of religious worship, allowed or permitted by this act.

Sect. 18. If any person or persons, at any time Disturbers how punished. or times, after the 10th day of June, do and shall willingly, and of purpose, maliciously or contemptuously, come into any cathedral or parish church, chapel or other congregation, permitted by this act, and disquiet or disturb the same, or misuse any preacher or teacher; such person or persons, upon proof thereof, before any justice of the peace, by two or more sufficient witnesses, shall find two sureties to be bound by recognizance, in the penal sum of fifty pounds; and in default of such sureties, shall be committed to prison, there to remain till the next general or quarter sessions; and upon conviction of the said offence, at the said general or quarter sessions, shall suffer the pain and penalty of twenty pounds, to the use of the King and Queen's Majesties, their heirs and successors.

Places for  
worship to be  
certified.

Sect. 19. No congregation, or assembly for religious worship, shall be permitted or allowed by this act, until the place of such meeting shall be certified to the Bishop of the Diocese, or to the Archdeacon of that Archdeaconry, or to the justices of the peace, at the general or quarter sessions of the peace, for the county, city, or place, in which such meeting shall be held, and registered in the said Bishop's or Archdeacon's Court, respectively, or recorded at the said general or quarter sessions; the register or clerk of the peace whereof respectively, is hereby required to register the same, and to give a certificate thereof to such person as shall demand the same, for which there shall be none greater fee nor reward taken than the sum of sixpence.

Fee.

10 Ann, c. 2.

Toleration  
confirmed.

By 10 Ann, c. 2, intituled, "An act for preserving the Protestant religion by better securing the Church of England, as by law established; and for confirming the toleration granted to Protestant Dissenters by an act intituled, "An act for exempting their Majesties' Protestant subjects, dissenting from the Church of England, from the penalty of certain laws," and for supplying the defects thereof; and for the further securing the Protestant succession, by requiring the practisers of the law in North Britain to take the oaths, and subscribe the declaration therein mentioned," It is by Sect. 7 enacted,

that the toleration granted to Protestant Dissenters by 1 William and Mary, shall be, and is thereby Ante p. 1. ratified and confirmed, and that the same act shall at all times be inviolably observed, for the exempting of such Protestant Dissenters as are thereby intended from the pains and penalties therein mentioned.

Sect. 8. And for rendering the said act more Benefit of  
1 W. & M.  
extended. effectual, according to the true intent and meaning thereof, it is further enacted and declared that if any person dissenting from the Church of England (not in holy orders, or pretended holy orders, or pretending to holy orders, or any preacher or teacher of any congregation) who should have been intitled to the benefit of the said act, if such person had duly taken, made, and subscribed the oaths and declaration, or otherwise qualified him or herself, as required by the said act, and then was or shall be prosecuted upon or by virtue of any of the penal statutes, from which Protestant dissenters are exempted by the said act, shall at any time during such prosecution, take, make, and subscribe the said oaths and declaration, or being of the people called Quakers, shall make and subscribe the aforesaid declaration, and also the declaration of fidelity, and subscribe the profession of their Christian belief according to the said act, or before any two of her

Majesty's justices of the peace, (who are thereby required to take and return the same to the next quarter sessions of the peace, to be there recorded,) such person shall be, and is hereby intitled to the benefit of the said act, as fully and effectually, as if such person had duly qualified himself within the time prescribed by the said act, and shall be thenceforth exempted and discharged from all the penalties and forfeitures incurred by force of any the aforesaid penal statutes.

52 Geo. III.  
c. 155.  
Certain acts  
repealed.

By 52 Geo. III. c. 155, intituled, "An act to repeal certain acts, and amend other acts relating to religious worship and assemblies and persons teaching or preaching therein," It is enacted that, an act of Parliament made in the session of Parliament held in the 13th and 14th years of his late

13 & 14 Chas.  
II. c. 1.

Majesty King Charles II. intituled, "An act for preventing the mischiefs and dangers that may arise by certain persons called Quakers, and others, refusing to take lawful oaths;" and another act of Parliament, made in the 17th year of the reign of

17 Chas. II.  
c. 2.

his late Majesty King Charles II. intituled, "An act for restraining nonconformists from inhabiting in Corporations;" and another act of Parliament, made in the 22nd year of the reign of the late King

22 Chas. II.  
c. 1.

Charles II. intituled, "An act to prevent and sup-

press seditious Conventicles," shall be, and the same are thereby repealed.

And by Sect. 14, it is provided and enacted, that Exemption. nothing in this act contained, shall extend or be construed to extend to the people usually called Quakers, nor to any meetings or assemblies for religious worship held or convened by such persons; or in any manner to alter or repeal, or affect any act, other than and except the acts passed in the reign of King Charles II. hereinbefore repealed, relating to the people called Quakers, or relating to any assemblies or meetings for religious worship held by them.\*

In 57 Geo. III. c. 19, intituled, "An act for the 57 Geo. III. c. 19. more effectually preventing seditious meetings and Seditious meetings.

\* It is to be remarked that as the law now stands, according to the opinion of eminent counsel, Friends are not liable to any fine or other penalty for convening or holding meetings for worship in places not registered; and that no danger needs be apprehended by any persons, not members of the Society of Friends, who may attend such meetings.

It is also the united opinion of the counsel whose advice has been taken, that no penalty attaches to the owner or occupier of the house or other building in which any such meeting may be held.

In case of any outrage committed on the persons assembled at any such meeting, or any wilful injury to the building, there is no doubt but the law affords a remedy.

Notwithstanding the above, it is considered proper that care should continue to be taken to register the usual and accustomed places for public worship belonging to the Society of Friends, as required by the Toleration Act, 1 W. and M. st. 1, c. 18, sect. 19. See page 12.

Exemption. assemblies," it is by Sect. 26 provided, that nothing therein contained should extend or be construed to extend to any meeting or society of the people commonly called Quakers, or to any meeting or society formed or assembled for purposes of a religious or charitable nature only, and in which no other matter or business whatsoever shall be treated of or discussed.

39 Geo. III.  
c. 79.

And, by Sect. 27, after reciting that in an act of the thirty-ninth year of the then present reign, intituled, "An act for the more effectual suppression of societies established for seditious and treasonable purposes; and for better preventing treasonable and seditious practices," it is amongst other things enacted, "that every society which shall be composed of different divisions or branches, or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate, or other officer elected or appointed by or for such part, or to act as an officer for such part, shall be deemed and taken to be unlawful combinations and confederacies;" It is Exemption. enacted that the said enactment shall not extend, or be construed to extend, to any meeting or society of the people commonly called Quakers, or to any



meeting or society formed or assembled for purposes of a religious or charitable nature only, and in which no other matter or business whatsoever shall be treated of or discussed.

By 9 and 10 Vict. c. 59, intituled, "An act to 9 & 10 Vict. c. 59. relieve her Majesty's subjects from certain penalties Disturbing religious assemblies. and disabilities in regard to religious opinions," it is by Sect. 4 enacted, That from and after the commencement of this act, all laws now in force against the wilfully and maliciously, or contemptuously disquieting or disturbing any meeting, assembly, or congregation of persons assembled for religious worship, permitted or authorized by any former act or acts of Parliament, or the disturbing, molesting, or misusing any preacher, teacher, or person officiating in such meeting, assembly or congregation, or any person or persons there assembled, shall apply respectively to all meetings, assemblies, or congregations whatsoever, of persons lawfully assembled for religious worship, and the preachers, teachers, or persons officiating at such last mentioned meetings, assemblies, or congregations, and the persons there assembled.

By 3 Geo. IV, c. 126, intituled "An act to amend 3 Geo. IV. c. 126. the general laws now in being, for regulating turn-

Exemptions  
from tolls.

pike roads in that part of Great Britain, called England," it is by Sect, 32, enacted, That, (*among many other exemptions,*) no toll shall be demanded, or taken by virtue of this or any other act or acts of parliament, on any turnpike road, of or from any person or persons going to or returning from his, her, or their proper parochial church or chapel, or of or from any other person or persons going to or returning from his, her, or their usual place of religious worship, tolerated by law on Sundays, or on any day on which divine service is by authority ordered to be celebrated ; or of or from any inhabitant of any parish, township, or place, going to or returning from attending the funeral of any person who shall die and be buried in the parish, township or hamlet in which any turnpike road shall lie.

Extent of ex-  
emption from  
tolls.

Sect. 33 enacts, That so much of this act as directs that no toll shall be demanded or taken from any person or persons going to or returning from his, her, or their proper parochial church or chapel, or of or from any other person or persons going to or returning from his, her, or their usual place of religious worship tolerated by law, on Sundays, or on any day on which divine service is ordered by authority to be celebrated, shall not extend, or be construed to extend, so as to exempt any such



person or persons from the payment of toll at any turnpike gate or gates, situate within the distance of five miles of the Royal Exchange in the City of London, or within the distance of five miles of Westminster Hall in the City and Liberties of Westminster.

By 3 and 4 Will. IV, c. 30, intituled, “ An act to <sup>3 & 4 Will. IV. c. 30.</sup> exempt from poor and church rates, all churches, chapels, and other places of religious worship,” it is enacted, That from and after the first day of October, 1833, no person or persons shall be rated, or shall be liable to be rated, or to pay to any church or poor rates or cesses, for or in respect of any churches, district churches, chapels, meeting houses, or premises, or such part thereof as shall be exclusively appropriated to public religious worship, and which, (other than churches, district churches, and episcopal chapels of the established church,) shall be duly certified for the performance of such religious worship, according to the provision of any act or acts now in force: Provided always, <sup>Proviso.</sup> that no person or persons shall be hereby exempted from any such rates or cesses, for or in respect of any parts of such churches, district churches, chapels, meeting houses, or other premises which are not so exclusively appropriated, and from which

No persons liable to be rated for places exclusively appropriated to religious worship.

parts not so exclusively appropriated, such person or persons shall receive any rent or rents, or shall derive profit or advantage.

Persons not liable because part of premises used for schools.

Sect. 2 enacts, That no person or persons shall be liable to any such rates or cesses, because the said churches, district churches, chapels, meeting houses, or other premises, or any vestry rooms belonging thereto, or any part thereof, may be used for Sunday or Infant Schools, or for the charitable education of the poor.

7 & 8 Vict. c. 45. Regulating suits relating to meeting houses, &c.

By 7 and 8 Vict. c. 45, intituled "An act for the regulation of suits relating to meeting houses and other property held for religious purposes, by persons dissenting from the united Church of England and Ireland," After reciting 1 Wm. and M., Sess. 1, c. 18 ; 19 Geo. III., c. 44 ; 53 Geo. III. c. 160 ; 6 Geo. I. (Ireland,) and 57 Geo. III. c. 70, And reciting that prior to the passing of the said recited acts respectively, as well as subsequently thereto, certain meeting houses for the worship of God, and Sunday or day schools, (not being grammar-schools,) and other charitable foundations, were founded or used in England and Wales and Ireland respectively, for purposes beneficial to persons dissenting from the Church of England and the Church

1 W. & M. Sess. 1, c. 18.  
19 Geo. III. c. 44  
53 Geo. III. c. 160.  
6 Geo. I. (I.)  
57 Geo. III. c. 70.

of Ireland, and the united Church of England and Ireland respectively, which were unlawful prior to the passing of those acts respectively, but which by those acts respectively were made no longer unlawful, it is enacted, That with respect to the meeting houses, schools, and other charitable foundations so founded or used as aforesaid, and the persons holding or enjoying the benefit thereof respectively, such acts, and all deeds or documents relating to such charitable foundations, shall be construed as if the said acts had been in force respectively at the respective times of founding or using such meeting houses, schools, and other charitable foundations as aforesaid.

Recited acts as well as deeds, &c. to be construed as if the acts had been in force at the time of the foundation of such meeting houses, &c.

Sect. 2 enacts, That so far as no particular religious doctrines or opinions, or mode of regulating worship, shall on the face of the will, deed, or other instrument, declaring the trusts of any meeting house for the worship of God, by persons dissenting as aforesaid, either in express terms, or by reference to some book, or other document, as containing such doctrines or opinions, or mode of regulating worship, be required to be taught or observed, or be forbidden to be taught or observed therein, the usage for twenty-five years immediately preceding any suit relating to such meeting house

The religious doctrines or opinions for the preaching or promotion of which the meeting house may be held, to be collected from 25 years usage where not expressly stated in the Deed of Trust.

of the congregation frequenting the same, shall be taken as conclusive evidence that such religious doctrines, or opinions, or mode, as have for such period been taught or observed in such meeting house, may properly be taught or observed in such meeting house, and the right or title of the congregation to hold such meeting house, together with any burial ground, Sunday, or day school, or minister's house attached thereto, and any fund for the benefit of such congregation, or of the minister or other officer of such congregation, or of the widow of any such minister, shall not be called in question on account of the doctrines, or opinions, or mode of worship so taught or observed in such meeting house : Provided nevertheless, that where any such minister's house, school or fund as aforesaid, shall be given or created by any will, deed or other instrument, which shall declare in express terms, or by such reference as aforesaid, the particular religious doctrines or opinions for the promotion of which such minister's house, school or fund is intended, then, and in every such case, such minister's house, school or fund, shall be applied to the promoting of the doctrines or opinions so specified, any usage of the congregation to the contrary notwithstanding.

Proviso.

Sect. 3 provides, That the act shall not affect any judgment, &c. already pronounced by a court of law or equity, but that in suits pending, the court may give the defendants the benefit of the act.

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Under the Head "Charities," *post*, will be found the act 9 Geo. II. c. 36, (*commonly, though inaccurately, called the Mortmain Act,*) and the remedial act 9 Geo. IV. c. 85, passed for perfecting titles in cases where the provisions of the Mortmain Act had not been complied with. And it is to be especially observed, that the remedial act has only a retrospective operation, and that the provisions and formalities required by the 9 Geo. II. c. 36, must in future be strictly complied with.

The purchase or acquisition of meeting houses and burial grounds, or of land for either of those purposes, as well as of premises held for objects more strictly charitable, comes within the purview of the Mortmain Act.

## OATHS AND AFFIRMATION.

7 Jas. I. c. 6. By 7 James I. c. 6, Sect. 2,\* It is enacted, that every person above the age of eighteen years, shall take the oath of allegiance set forth in 3 James I, c. 4. (*repealed vide ante p. 1 note.*)

Justices may require persons to take the oath.

Sect. 26. It shall be lawful for any two justices of the peace (whereof one of the quorum) to require any person of the age of eighteen years, under the degree of a Baron or Baroness, to take the oath; and if any person of the age of eighteen years shall refuse to take the oath duly tendered, the persons authorized may commit the offender to the common gaol until the next assizes or quarter sessions, where the oath shall be again required; and if the person shall refuse to take the oath, every person so refusing, shall incur the penalty of præmunire,† except women covert, who shall be committed only to prison, till they take the oath.

On refusal, persons may be committed till next assizes, and then on refusing, to incur the penalties of præmunire.

\* So much of this act as relates to Recusants, or to the penalties of Recusancy, is repealed by 7 and 8 Vict. c. 102; and by 9 and 10 Vict. c. 59, 7 Jas. I. c. 6, is wholly repealed.

† Præmunire; so called from the words of the writ preparatory to the prosecution thereof; the penalties whereof are, that the persons incurring the same, shall be put out of the King's protection, and their lands and goods forfeited to the King, and they shall be attached by their bodies, and brought before the King and his Council to answer, or process shall be made against them by præmunire facias.

Sect. 27. Every person refusing to take the oath, shall be disabled to execute any public place of judicature, or to bear any other office (being no office of inheritance or ministerial function) within England, or to the practice of the law, or physic or surgery, or the art of an apothecary, or any liberal science for gain, until he shall receive the oath.

Persons refusing, incapable of any office.

By 1 W. and M. st. 1, c. 8, intituled, "An act for abrogating the oaths of supremacy and allegiance, and appointing other oaths,"\* Sect. 2, The oath of supremacy required by 1 Eliz. c. 1, and the oath of allegiance required by 3 James I. c. 4, and 7 James I. c. 6, are repealed.

1 W. and M. st. 1, c. 8.

Repeal of certain oaths.

Sect. 3. The oaths and declaration appointed by this act shall be taken and subscribed by such persons as were required to take the said abrogated oaths of supremacy and allegiance.

Other oaths required to be taken.

Sect. 4. And all and every person and persons shall take the said oaths, and make, repeat, and subscribe the said declaration, before such person

Before whom oaths, &c. to be taken.

\* So much of this act as renders liable any person or persons who shall refuse to take the oaths therein mentioned, or either of them, to imprisonment, fine, and disability to hold any office, civil or military, is repealed by 7 and 8 Vict. c. 102; and by 9 and 10 Vict. c. 59, other parts of 1 Eliz. c. 1, are repealed, and 3 Jas. I. c. 4. is wholly repealed.



or persons respectively, as were authorized and empowered to tender the said oaths of allegiance then abrogated and made void; which said person or persons are thereby required to minister and tender the same accordingly.

Persons in office to take the oaths.

Sect. 5. All persons that shall hereafter be admitted into any office or employment, ecclesiastical or civil, or come into any capacity, in respect, or by reason whereof, they should have been obliged by any statute to take the said abrogated oaths, or either of them, shall take the oaths hereby appointed, in such manner, at such times, before such persons, and in such places, as they should or ought to have taken the said former oaths, or either of them, in case the same had not been abrogated.

Penalty for neglect.

And that every person who shall neglect or refuse to take the same, shall incur and be liable to the same penalties, forfeitures, disabilities, and incapacities, as by any such statute was appointed.

Persons refusing to take the oaths upon tender, to be committed.

Sect. 9. If any person or persons shall refuse to take the said oaths, or either of them, when tendered to him or them by any persons lawfully authorized to administer or tender the same; the person or persons so tendering the said oaths, or either of them, shall commit the said person and



persons so refusing, to the common gaol or house of correction, there to remain, without bail or mainprize, for the space of three months, unless such offender shall pay down to the said person or persons so tendering the said oaths, or either of them, such sum of money, not exceeding forty shillings, as the said person or persons so tendering the said oaths, or either of them, shall require such offender to pay; which monies shall be paid to the churchwardens or overseers of the poor, for the relief of the poor of the parish or place where such offender did last inhabit; and if at the end of three months Second refusal. after such refusal, the person or persons so refusing, shall again refuse to take the said oaths, or either of them, when lawfully tendered to him or them, the person or persons so tendering the said oaths, or either of them, shall commit the said person and persons so refusing, to the common gaol or house of correction, there to remain for the space of six months, unless every such offender shall pay down to the person or persons so tendering the said oaths, or either of them, such sum of money, not exceeding ten pounds, nor under five pounds, as the said person or persons so tendering the said oaths, or either of them, shall require such offender to pay; the said money to be disposed of in manner aforesaid: And unless every such offender shall

become bound with two sufficient sureties, with condition to be of good behaviour, and also to appear at the next assizes or general gaol delivery to be holden for the county, liberty, or place where such offender shall then inhabit or reside ; at which assizes or gaol delivery the said oaths shall be again tendered to every such offender by the justices of assizes or gaol delivery, in their open assizes or

Third refusal. gaol delivery : And if the said offender shall refuse to take the said oaths, or either of them, when tendered by the justices of assizes or gaol delivery, then every person and persons so refusing, shall be and are hereby adjudged incapable of any office, civil or military, within this kingdom, and shall likewise be and remain bound to good behaviour until he or they do take the said oaths. And in case any

Penalty for refusing declaration. such person or persons shall refuse also to make and subscribe the declaration\* mentioned in the statute made in the 30 Chas. II. such person and persons shall suffer all pains, penalties, forfeitures, and disabilities, as a Popish Recusant convict, and be taken and deemed a Popish Recusant convict, to all intents and purposes whatsoever.

*Other oaths are appointed by subsequent acts instead of those appointed by this act.*

\* See page 7, note.

By 1 W. and M., c. 18, intituled, "An act for 1 W. & M.  
 exempting their Majesties' Protestant subjects dis- c. 18, Parish  
 senting from the Church of England, from the officers scrupling oaths,  
 penalties of certain laws," Sect. 7, It is enacted, allowed to act  
 by deputy.  
 that if any person dissenting from the Church of  
 England, shall hereafter be chosen or otherwise  
 appointed, to bear the office of high constable or  
 petit constable, churchwarden, overseer of the poor,  
 or any other parochial or ward office, and such  
 person shall scruple to take upon him any of the  
 said offices in regard of the oaths, or any other  
 matter or thing required by the law to be taken or  
 done in respect of such office, every such person  
 shall and may execute such office or employment by  
 a sufficient deputy, by him to be provided, that  
 shall comply with the laws on this behalf. Pro-  
 vided always, the said deputy be allowed and  
 approved by such person or persons, in such manner  
 as such officer or officers respectively should by law  
 have been allowed and approved.

By 7 and 8 Will. III. c. 24, intituled, "An act 7 & 8 Will.  
 requiring the practisers of law to take the oaths, and III. c. 24.  
 subscribe the declaration therein mentioned," It is Persons prac-  
 enacted, that if any person shall act as serjeant at tising law not  
 law, counsellor, barrister, advocate, attorney, soli- taking oaths,  
 citor, proctor, clerk, or notary, by practising in any &c. liable to  
 penalties.

Ante p. 25. manner as such in any court, not having before the time of such acting taken in Chancery, or King's Bench, or quarter sessions of the county wherein he lives, the oaths mentioned in 1 W. and M. c. 8, and made and subscribed the declaration\* appointed in 25 Chas. II. intituled, An act for preventing dangers which may happen from Popish Recusants," such persons shall incur all the pains, penalties, and forfeitures mentioned in the statute of Præmunire, 16 Rich. II.

7 & 8 Will.  
III. c. 27.

Persons re-  
fusing to take  
oaths, liable to  
penalties on  
Popish Recu-  
sants.

By 7 and 8 Will. III. c. 27, intituled, "An act for the better security of his Majesty's Royal Person and Government;" Sect. 1, It is enacted that every person and persons who shall refuse to take the oaths when tendered by persons lawfully authorised, or shall refuse or neglect to appear when lawfully summoned in order to have the oaths tendered to him or them, shall until he or they have duly taken the said oaths be liable to incur, forfeit, pay, and suffer, all and every the penalties, forfeitures, sums of money, disabilities, and incapacities, which by the laws of the realm are or were inflicted upon Popish Recusants, duly convicted of Recusancy. And the

\* The following is the form of this declaration :—

"I, A. B. do declare, that I do believe, that there is not any transubstantiation in the Sacrament of the Lord's Supper, or in the elements of bread and wine, at or after the consecration thereof by any person whatsoever."

persons so tendering the oaths shall upon every such refusal or default of appearance, record the christian and surnames, and the place of abode of the person or persons so refusing or not appearing, with the time of such tender and refusal, or default of appearance, and shall deliver and certify the said record or entry to the justices of assize, justices of Oyer and Terminer or gaol delivery, at their next session, who shall forthwith certify the same into his Majesty's Court of Exchequer.

Names of persons refusing to be entered of record.

Sect. 12. Provided always that such of the Dissenters from the Church of England, called Quakers, who scruple the taking any oath, as shall make and subscribe the declaration of fidelity mentioned in 1 W. and M. and shall produce such witnesses and certificates as are by the said act required, proving themselves to be of the said people called Quakers, and shall also own King William to be rightful and lawful King of these realms, shall and are hereby exempted from the penalties and forfeitures provided by this act for such as shall refuse to take the oaths.

Friends may subscribe Declaration of Fidelity.

Ante p. 7.

Sect. 19. And it is further enacted that no person who shall refuse to take the oaths, or being Quakers shall refuse to subscribe the declaration of fidelity (which oaths and subscription respectively

Persons refusing to take oaths, &c., to have no vote in election of members of Parliament.

the sheriff or chief officer taking the poll at any election of members to serve in parliament, at the request of any one of the candidates, are hereby empowered and required to administer) shall be admitted to give any vote for the election of any knight, citizen, burgess, or baron, to serve in Parliament.

7 & 8 Will.  
III. c. 34.

By 7 and 8 Will. III. c. 34, intituled, “ An act that the solemn affirmation and declaration of the people called Quakers, shall be accepted instead of an oath in the usual form ;” Sect. 1, After reciting that divers Dissenters, commonly called Quakers, refusing to take an oath in courts of justice, and other places, are frequently imprisoned, and their estates sequestered, by process of contempt issuing out of such courts, to the ruin of themselves and families : For remedy thereof it was enacted that every Quaker within the Kingdom of England, Dominion of Wales, or Town of Berwick-upon-Tweed, who shall be required upon any lawful occasion to take an oath in any case, where by law an oath is required, shall, instead of the usual form, be permitted to make his or her solemn affirmation or declaration, in the words therein following.

Friends, instead of oath, to make affirmation.

*The form is altered by 8 Geo. I. c. 6, post, and subsequently by 3 and 4 Will. IV. c. 49, post.*



Sect. 2. Which said solemn affirmation or declaration shall be adjudged and taken, and is thereby enacted and declared to be of the same force and effect, to all intents and purposes, in all courts of justice, and other places, where by law an oath is required within the Kingdom of England, Dominion of Wales, or Town of Berwick-upon-Tweed, as if such Quaker had taken an oath in the usual form.

Which is to be of the same force in law as an oath.

Sect. 3. And it is further enacted, that if any Quaker, making such solemn affirmation or declaration, shall be lawfully convicted, wilfully, falsely, and corruptly to have affirmed or declared any matter or thing, which, if the same had been in the usual form, would have amounted to wilful and corrupt perjury; every such Quaker so offending, shall incur the same penalties and forfeitures, as by the laws and statutes of this realm are enacted against persons convicted of wilful and corrupt perjury.

Penalty on false affirmation.

Sect. 6. Provided, and it is enacted, that no Quaker or reputed Quaker, shall by virtue of this act be qualified or permitted to give evidence in any criminal causes, or serve on any juries, or bear any office or place of profit in the Government; any thing herein contained to the contrary in any wise notwithstanding.

Friends not to be evidence in criminal causes. Repealed by subsequent statutes.

*This act was to continue in force for seven years, it was extended by 13 Will. III. c. 4, and made perpetual by 1 Geo. I. c. 6, and so far as regards the affirmation, extended to Scotland; but is altered by 8 Geo. I. c. 6, by 9 Geo. IV. c. 32, and 3 & 4 Will. IV. c. 49.*

6 Ann, c. 14.

Justices may  
summon  
before them  
disaffected  
persons, and  
tender them  
the oath.

By 6 Ann, c. 14, intituled, "An act for the better security of her Majesty's person and government," Sect. 7, It is enacted, that it shall and may be lawful for any two justices of the peace, whereof one of them to be of the quorum, within any of the counties, ridings, divisions, stewartries, cities, or boroughs within the Kingdom of Great Britain, or any other person or persons who shall be for that purpose specially appointed, at any time or times to summon and convene before them all such persons within the limits of their respective jurisdictions, powers and authorities, as they shall or may suspect to be dangerous or disaffected to the Government, and shall and may tender to every such person and persons the oath therein above-mentioned and appointed, (*viz.*, *the oath of Abjuration, which is altered by subsequent statutes, vide post,*) and shall at the next quarter sessions of the peace, to be held for the county or place in which the said oath shall be tendered, certify the christian names and surnames,



and places of abode, of all persons refusing to take the said oath, to be there recorded, and shall be from thence certified by the clerk of the peace of such county, riding, liberty, borough, town corporate, or place, within England, into the Court of Chancery or Queen's Bench at Westminster, and by the clerk of the peace of every shire, stewardry, borough, or place, in Scotland, into the Court of Session, there to be recorded in the register or rolls of the said respective courts; and if the person so refusing and certified shall not, within the next term or session after such refusal, appear in the Court of Chancery, Queen's Bench, or Session, where such certificate shall be returned, and in open court audibly and solemnly take and subscribe the oath aforesaid, and endorse or enter his so doing upon the certificate so returned, shall be from such the time of his neglect or refusal, taken, esteemed and adjudged a Popish recusant convict, and as such shall forfeit and undergo such penalties as a Popish recusant convict ought to do by the laws in England.

By 6 Ann, c. 23, it is enacted, Sect. 13, that every person who shall refuse to take the oath last thereinbefore recited, (*viz. the oath of Abjuration*) or being a Quaker, shall refuse to declare the effect thereof upon his solemn affirmation, as directed by

6 Ann, c. 23.  
Friends re-  
fusing to make  
affirmation.

Ante p. 32. 7 Will. (which oath or declaration the sheriff, president of the meeting, or chief officer taking the poll, at any election of members to serve in the House of Commons for any place in Great Britain, or commissioners for choosing burgesses for any place in Scotland, at the request of any candidate or other person present at such election, are thereby empowered and required to administer) shall not be capable of giving any vote for the election of any such member to serve in the House of Commons for any place in Great Britain, or commissioner to choose a burgess for any place in Scotland.

Incapable of voting for members of Parliament.

Friends not liable to penalties.

Sect. 14. If any person being a Quaker, shall refuse to take the said oath, being tendered to him in pursuance of the 6 Ann, c. 14, but shall instead thereof, declare the effect of the said oath, upon his solemn affirmation, as directed by 7 Will. III. which affirmation shall be administered to such Quaker instead of the said oath, such Quaker shall not be liable to any of the penalties or forfeitures for refusing the said oath, when tendered to him, contained or mentioned in 6 Ann, c. 14.

Ante p. 32.

1 Geo. I. c. 6. Affirmation instead of ab-juration oath.

By 1 Geo. I. c. 6, intituled, “ An act for making perpetual an act 7 and 8 Will. III., intituled, ‘ An act that the solemn affirmation and declaration of

the people called Quakers, shall be accepted instead of an oath in the usual form,' and for explaining and enforcing the said act in relation to the payment of tithes and church rates and for appointing the form of an affirmation to be taken by the said people called Quakers, instead of the oath of abjuration." It is enacted, Sect. 3, that in all cases wherever the effect of the said abjuration oath may be legally tendered, or required of the said people called Quakers, or any of them, he or they shall take the effect thereof in the words there following: *The form is subsequently altered, vide post.*

By 8 Geo. I. c. 6, intituled, "An act for granting 8 Geo. I. c. 6. the people called Quakers, such forms of affirmation or declaration, as may remove the difficulties which many of them lie under:" Reciting, that for giving some ease to scrupulous consciences, an act was made, 1 W. & M. c. 18, whereby, among other Ante p. 1. things, a declaration of fidelity, in the form therein expressed, is appointed to be made by certain persons, Dissenters from the Church of England, who scruple the taking of any oath: And reciting, that an act was made 7 and 8 Will. III. intituled, "An Ante p. 32. act that the solemn affirmation and declaration of the people called Quakers, shall be accepted instead of an oath in the usual form," under the provisions

therein mentioned; which act being at first temporary, was afterwards further continued by 13 and 14 Will. III. and the same act is made perpetual by an act made in the first year of his then Majesty's reign; by which last mentioned act, a form, importing the effect of the abjuration oath, is prescribed to be taken by the said people called Quakers: And reciting, that the inconveniences to the said people called Quakers, and their families, and to others requiring their testimony, in many cases, were not sufficiently avoided, by reason of difficulties among the said Quakers, relating to the forms of the declaration, affirmation and abjuration, before-mentioned, as the same were then prescribed: And reciting that it was evident, that the said people called Quakers had not abused the liberty and indulgence allowed to them by law, and that they had given testimony of their fidelity and affection to his Majesty, and the settlement of the Crown in the Protestant line; and that it was reasonable to give them farther ease and relief: It is then enacted, that in all cases, where by law any Quaker is, or shall be required or permitted to make and subscribe the declaration of fidelity, in the form prescribed by the said first mentioned act, or to make the solemn affirmation or declaration in the form prescribed by 7 & 8 Will. III., or to take the effect of the abjuration oath, in the form pre-

New forms.

scribed by the act of the first year of his then Majesty's reign, every such Quaker, shall, instead of such first mentioned declaration of fidelity, make and subscribe a declaration of fidelity in the following words, viz.

I, A. B. do solemnly and sincerely promise and <sup>Declaration of fidelity.</sup> declare, that I will be true and faithful to King George, and do solemnly, sincerely, and truly profess, testify, and declare, that I do from my heart abhor, detest, and renounce, as impious and heretical, that wicked doctrine and position, that Princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign Prince, Person, Prelate, State, or Potentate, hath or ought to have any power, jurisdiction, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm.

And instead of the solemn affirmation or declara- <sup>Affirmation.</sup> tion in the form prescribed by 7 and 8 Will. III. every such Quaker shall make the solemn declaration or affirmation *set out in the act.*

And instead of the form prescribed by the said act of the first year of his then Majesty's reign, for

the effect of the abjuration oath, every such Quaker shall take the effect thereof in the *words set out in the act*.

*The forms now in use are given in 3 & 4 Will. IV. c. 49, post.*

Authority for administering new forms.

And all persons authorised or required to administer or tender, either the said former declaration of fidelity, or the said former solemn affirmation or declaration, or the former effect of the abjuration oath aforesaid, shall be, and are hereby authorised and required to administer and tender the same respectively, to the said people called Quakers, in the words by this act respectively appointed.

To be of the same effect as former ones.

Sect. 2. The declaration of fidelity, and solemn affirmation or declaration, and the effect of the abjuration oath, appointed by this act for the said people called Quakers, instead of the respective forms prescribed for the same by the said recited acts, shall respectively be adjudged and taken to be of such and the same force and effect, and no other, to all intents and purposes, in all courts of justice and elsewhere, as if such Quaker had made and subscribed the declaration of fidelity, or had made the solemn affirmation or declaration, or had taken



the effect of the abjuration oath, in the respective forms appointed by the said recited acts: And if any person making such affirmation or declaration, as is appointed by this act to be made, instead of the affirmation or declaration in the form prescribed by 7 & 8 Will. III. shall be lawfully convicted of wilful, false and corrupt affirming and declaring any matter or thing, which, if sworn in the common or usual form, would have amounted to wilful and corrupt perjury, every such person, so offending shall incur and suffer such and the same pains, penalties, and forfeitures, as are inflicted or enacted, by the laws and statutes of this realm, against persons convicted of wilful and corrupt perjury.

False affirmation.

Sect. 3. All clauses, provisoes, and exceptions, contained in the said recited acts, or any of them, not hereby expressly altered or repealed, shall be of such and the same force and effect, as they were before the making of this act.\*

Clauses not repealed.

\* By the Annual Indemnity Acts, all persons who ought to have taken certain oaths, and subscribed certain declarations required by various acts, and amongst which are mentioned several of the acts set out under this head, but who have neglected or omitted so to do, are indemnified against all penalties, forfeitures, incapacities, and disabilities, incurred by such neglect or omission, by taking the said oaths, and subscribing the said declarations, on or before a particular day therein mentioned, before which day the next Indemnity Act is generally passed.

By 22 Geo. II. c. 46, it was enacted, that in all cases where by any act then in force or thereafter to be made, an oath was or should be allowed, authorized, directed, or required, the affirmation of a Friend should be allowed and taken instead of such oath ; but the act contains similar exceptions to those contained in the former acts, as to giving evidence in criminal cases, serving on juries, and bearing any office of profit in the Government. And by 15 Geo. III. c. 39, the affirmation of Friends was extended to cases where penalties were to be levied, or distresses to be made under any Act of Parliament ; but as the affirmation is now by 3 & 4 Will. IV. c. 49, *post*, extended to all cases where an oath is or shall be required, it is needless to set them out in full.

Geo. IV. c.  
32.

Friends or  
Moravians re-  
quired to give  
evidence, may  
instead of an  
oath make  
their solemn  
affirmation,  
which shall  
be of the  
same effect in  
all cases, civil  
or criminal.

By 9 Geo. IV. c. 32, intituled “ An act for amending the law of evidence in certain cases,” it is by Sect. 1 enacted, that every Quaker or Moravian who shall be required to give evidence in any case whatsoever, criminal or civil, shall, instead of taking an oath in the usual form, be permitted to make his or her solemn affirmation or declaration in the words following, (that is to say,)

The form of  
the affirma-  
tion is now  
altered by 3  
& 4 Will. IV.  
c. 49, *post*.

“ I, A. B. do solemnly, sincerely, and truly declare and affirm,” which said affirmation or declaration shall be of the same force and effect in all courts of justice, and other places, where by law an oath is required, as if such Quaker or Moravian



had taken an oath in the usual form; and if any person making such affirmation or declaration shall be convicted of having wilfully, falsely, and corruptly affirmed or declared any matter or thing, which if the same had been sworn in the usual form, would have amounted to wilful and corrupt perjury, every such offender shall be subject to the same pains, penalties, and forfeitures, to which persons convicted of wilful and corrupt perjury are or shall be subject.

By 3 & 4 Will. IV. c. 49, intituled “An act <sup>3 & 4 Will. IV. c. 49.</sup> to allow Quakers and Moravians to make affirmation in all cases where an oath is or shall be required,” it is by Sect. 1 enacted, that every person of the persuasion of the people called Quakers, and every Moravian, be permitted to make his or her solemn affirmation or declaration <sup>Friends permitted to make solemn affirmation or declaration instead of an oath, in all cases.</sup> instead of taking an oath, in all places and for all purposes whatsoever where an oath is or shall be required, either by the common law or by any Act of Parliament already made or hereafter to be made, which said affirmation or declaration shall be of the same force and effect, as if he or she had taken an oath in the usual form; and if any such person making such solemn affirmation or declaration shall be lawfully <sup>Penalty on affirming or declaring falsely.</sup> convicted wilfully, falsely, and corruptly to have affirmed or declared any matter or thing, which, if

the same had been in the usual form, would have amounted to wilful and corrupt perjury, he or she shall incur the same penalties and forfeitures as by the laws and statutes of this realm are enacted against persons convicted of wilful and corrupt perjury, any law, statute, or custom to the contrary notwithstanding; provided always, that every such affirmation or declaration shall be in the words following; (that is to say,)

Proviso.

Form of declaration.

“I, A. B. being one of the people called Quakers, [or one of the persuasion of the people called Quakers, or of the United Brethren called Moravians, *as the case may be,*] do solemnly, sincerely, and truly declare and affirm.”

By Sect. 2, after reciting that some doubts may arise as to the form of the affirmation to be taken in lieu of the oath of abjuration, by persons of the persuasion of the people called Quakers, it is enacted, that instead of the form of affirmation prescribed in lieu of the abjuration oath by the act 8 Geo. I, and instead of the form of the oath of abjuration prescribed by the act 6 Geo. III, every person of the persuasion of the people called Quakers, shall be permitted to make his or her solemn affirmation in the following words, *videlicet,*

8 Geo. I. c. 6.  
Ante p. 37.

6 Geo. III.  
c. 53.

“ I, A. B., being one of the people called Quakers, Form of affirmation in lieu of oath of abjuration.  
 [or one of the persuasion of the people called Quakers,  
 or of the United Brethren called Moravians, *as the case may be*] do solemnly, sincerely, and truly acknowledge, profess, testify and declare, that King *William* is lawful and rightful King of this realm, and of all other his dominions and countries thereunto belonging ; And I do solemnly and sincerely declare, that I do believe that not any of the descendants of the person who pretended to be Prince of *Wales*, during the life of the late King *James* the Second, and since his decease pretended to be and took upon himself the style and title of King of *England*, by the name of *James* the third, or of Scotland by the name of *James* the eighth, or the style and title of king of *Great Britain*, hath any right or title whatsoever to the crown of this realm, or any other the dominions thereunto belonging ; and I do renounce and refuse any allegiance or obedience to any of them : And I do solemnly promise, that I will be true and faithful and bear true allegiance to King *William*, and to him will be faithful against all traitorous conspiracies and attempts whatsoever, which shall be made against his person, crown, or dignity ; and I will do my best endeavour to disclose and make known to King *William* and his successors all treasons and traitorous conspiracies, which I shall

know to be made against him or any of them ; and I will be true and faithful to the succession of the crown against the descendants of the said *James*, and against all other persons whatsoever, which succession, by an act intituled *An act for the further limitation of the Crown, and better securing the rights and liberties of the subject*, is and stands limited to the Princess *Sophia*, electress and duchess dowager of *Hanover*, and the heirs of her body being Protestants: And all these things I do plainly and sincerely acknowledge, promise, and declare, according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equivocation, mental evasion, or secret reservation whatsoever: And I do make this recognition, acknowledgment, renunciation, and promise heartily, willingly, and truly.”

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Although all questions as to the applicability of the affirmation of a Friend instead of an oath, are set at rest by 3 & 4 Will. IV. c. 49, yet it may not be unsuitable, as a matter of historical interest, to give some extracts from the votes of the House of Commons in the year 1833, on the occasion of Joseph Pease being returned by one of the divisions of the County of Durham as their representative in Parliament. They are as follow—

Veneris, 8<sup>o</sup> die Februarii, 1833.

Several members attended at the table to take the oaths, and Joseph Pease, Esq., returned for the southern division of the County of Durham, having stated that being one of the people called Quakers, he claimed the privilege of making an affirmation, instead of taking the oaths; whereupon he was desired by Mr. Speaker to retire until the sense of the house could be taken upon his claim, and he retired accordingly.

QUAKER AFFIRMATION.—Select Committee appointed “to search the journals of the house, and to report to the house such precedents, and such acts, or parts of Acts of Parliament as relate to the right of the people called Quakers to take their seats in Parliament, and to the privilege conferred upon them to make their solemn affirmation in courts of justice and other places where by law an oath is allowed, authorized or required to be taken.”

Jovis, 14<sup>o</sup> die Februarii, 1833.

Joseph Pease, Esq.—Resolved, That it appears to this house that Joseph Pease, Esq., is entitled to take his seat upon making his solemn affirmation and declaration to the effect of the oaths directed to be taken at the table of this house.

Veneris, 15<sup>o</sup> die Februarii, 1833.

Joseph Pease, Knight of the Shire for the County of Durham, appeared at the table, and made his solemn affirmation; and several other members took the oaths.

By 1 and 2 Vict. c. 77, intituled, “An act for <sup>1 & 2 Vict.</sup> c. 77. permitting affirmation to be made instead of an oath

in certain cases," it is enacted, that it shall be lawful

Persons who  
may have been  
Friends, may  
make affirma-  
tion in lieu of  
oath.

for any person who shall have been a Quaker, or a Moravian, to make solemn affirmation and declaration in lieu of taking an oath, as fully as it would be lawful for any such person to do if he still remained a member of either of such religious denominations of Christians, which said affirmation or declaration shall be of the same force and effect as if he or she had taken an oath in the usual form ;

If convicted of  
having falsely  
affirmed to be  
punished as if  
guilty of per-  
jury.

and if any such person making such solemn affirmation or declaration shall be convicted of having wilfully, falsely, and corruptly affirmed or declared any matter or thing which, if the same had been sworn in the usual form, would have amounted to wilful and corrupt perjury, every such offender shall be subject to the same pains, penalties, and forfeitures to which persons convicted of wilful and corrupt perjury are or shall be subject: Provided always that every such affirmation or declaration shall be in the words following (that is to say)

Proviso.

Form of decla-  
ration.

I, A. B. having been one of the people called Quakers, [*or one of the persuasion of the people called Quakers, or of the United Brethren called Moravians, as the case may be*], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare, and affirm.



## OFFICES.

By 9 Geo. IV. c. 17, intituled “ An act for repealing so much of several acts as imposes the necessity of receiving the sacrament of the Lord’s Supper as a qualification for certain offices and employments,”

After reciting the acts of 13 Chas. II. st. 2, c. 1 ; 25 Chas. II. c. 2, and 16 Geo. II. c. 30, it is, by Sect. 1 enacted, that so much of the recited acts as requires

the person or persons in the said acts respectively described, to take or receive the sacrament of the Lord’s Supper according to the rites or usage of the Church of England, for the several purposes therein expressed, shall be, and the same are hereby repealed.

And by Sect. 2, the form is given of a Declaration to be made in lieu of the sacramental test.

*The form to be used by Friends is given in 1 and 2 Vict. c. 5, post.*

By 5 and 6 Will. IV. c. 28, intituled “ An act for removing doubts as to the declaration to be made, and oaths to be taken by persons appointed to the office of sheriff of any city or town being a county of itself,” after reciting that by 9 Geo. IV. c. 17, it is enacted, that every person who should thereafter



be placed, elected, or chosen, in or to the several public Offices or Trusts therein named, should within one calendar month next before or upon his admission into any of the aforesaid Offices or Trusts, make and subscribe the Declaration therein mentioned; it is by Sect. 1 enacted, that no person who had already been or should thereafter be elected or chosen to the office of sheriff of any city or town being a county of itself, should by reason thereof be liable to make or subscribe the aforesaid Declaration within one calendar month next before or upon his admission to the said office: Provided always that every person so elected or chosen to the said office of sheriff shall take, make, and subscribe, within the time required by law, all Oaths and Declarations which sheriffs of counties are bound to take, make, and subscribe.

No person chosen a sheriff, liable to make the declaration in 9 Geo. IV. c. 17.

Proviso.

5 & 6 Will. IV. c. 76.

Mayor, alderman and councillors, auditors and assessors of boroughs, not to act until they have made a declaration of acceptance of office.

By 5 and 6 Will. IV. c. 76, intituled "An act to provide for the regulation of municipal corporations in England and Wales," it is by Sect. 50 enacted, that no person elected a mayor, alderman or councillor, or auditor or assessor, for any borough, shall be capable of acting as such, except in administering the declaration thereinafter contained, until he shall have made and subscribed before any two or more such aldermen or councillors (who are thereby

respectively authorized and required to administer the same to each other) the declaration of acceptance of office and of qualification by estate, in the words or to the effect therein mentioned: And that every alderman who shall have made and subscribed the foregoing declaration in respect of estate, shall once in every period of three years, if required in writing so to do by any two members of the council, make and subscribe a declaration that he is qualified to the same amount in real or personal estate, or both, as the case may be, as the amount mentioned in the declaration originally made and subscribed by him: Provided that nothing in the act contained should be construed to dispense with the obligation of any person to make and subscribe the declaration provided and enjoined by the act of 9 Geo. IV. c. 17.

Aldermen, if required, to make a declaration of office once in three years.

Proviso.

9 Geo. IV. c. 17, ante.

By 6 and 7 Will. IV. c. 104, intituled "An act for the better administration of the borough fund in certain boroughs," *after reciting* 5 and 6 Will. IV. c. 76, and that no provision is made in the said act for resigning any corporate office on payment of a fine or otherwise, it is by Sect. 8 enacted, that every person elected into any corporate office in any of the said boroughs, may at any time resign such office on payment of the fine which he would have been liable to pay for non-acceptance of the same office: Pro-

6 & 7 Will. IV. c. 104.

5 & 6 Will. IV. c. 76, ante.

Corporate offices may be resigned on payment of fine.

Proviso exempting from fine, persons enabled to make affirmation.

vided that no person enabled by law to make an affirmation instead of taking an oath, shall be liable to any fine for non-acceptance of office in any borough, by reason of his refusal on conscientious grounds to take any oath or make any declaration required by the said act, or to take upon himself the duties of such office.

*By the 3 and 4 Vict. cap. 108, like provision is made for Ireland.*

1 & 2 Vict. c. 5.

By 1 and 2 Vict. c. 5, intituled "An act for the relief of Quakers, Moravians, and Separatists elected to Municipal offices," it is enacted, that instead of

Instead of the declarations required by 9 Geo. IV. c. 17, and 5 & 6 Will. IV. c. 76, the following declaration to be made.

the declarations required to be subscribed in 9 Geo. IV. c. 17, and in 5 and 6 Will. IV. c. 76 respectively, Quakers, Moravians, and Separatists, entertaining conscientious scruples to such declarations, be permitted to make the following declaration on accepting office in any municipal corporation as mayor, alderman, or councillor :

Declaration.

"I, A. B., being one of the people called Quakers, [or one of the persuasion of the people called Quakers, or of the United Brethren called Moravians, or of the denomination called Separatists, as the case may be] having conscientious scruples against

subscribing the declaration contained in an act passed in the ninth year of the reign of King *George* the Fourth, intituled ‘*An act for repealing so much of several acts as imposes the necessity of receiving the Sacrament of the Lord’s Supper as a qualification for certain offices and employments,*’ do solemnly, sincerely, and truly declare and affirm, that I will not exercise any power or authority or influence which I may possess by virtue of the office of  
to injure or weaken the Protestant Church as it is by law established in *England*, nor to disturb the said church, or the bishops and clergy of the said church, in the possession of any right or privileges to which such church or the said bishops and clergy may be by law entitled.”

Sect. 2 enacts, That such affirmation or declaration shall be of the same force and effect as if the person making it had made or subscribed the declarations aforesaid as contained in the said acts of 9 Geo. IV. and 5 and 6 Will. IV. respectively.

Such declaration to be of same force as those in 9 Geo. IV. c. 17, and 5 & 6 Will. IV. c. 76.

By 1 and 2 Vict. c. 15, intituled “An act for the further relief of Quakers, Moravians and Separatists,” it is enacted, that every person being of the persuasion of the people called Quakers, or being a Moravian or Separatist, and entertaining

1 and 2 Vict. c. 15.  
Instead of the declaration required by the act 9 Geo. IV. c. 17, that contained in

1 & 2 Vict.  
c. 5, may be  
taken by  
Friends, &c.  
elected to  
office in any  
corporation.

conscientious scruples against making the declaration prescribed by 9 Geo. IV. c. 17, who has been or shall be placed, elected, or chosen in or to the office of recorder, bailiff, town clerk, or common councilman, or any office of magistracy, or place, trust or employment relating to the government of any city, corporation, borough, or cinque port within England and Wales, or the Town of Berwick-upon-Tweed, or who has been or shall be admitted into any office or employment, or has accepted, or shall accept from her Majesty, her heirs or successors, any patent, grant, or commission, may, instead of making and subscribing the declaration prescribed by the said act of 9 Geo. IV., make and subscribe the declaration contained in the act 1 and 2 Vict. c. 5; and every such person so making and subscribing such last mentioned declaration shall have the same rights, powers, and authorities which he would have had if he had made and subscribed the declaration contained in the said act of 9 Geo. IV.: Provided always, that every declaration to be made by virtue of this act shall be made and subscribed before the same person or persons or court, and within the same time, and shall be preserved in the same manner as by the said act of 9 Geo. IV. is directed, as to the declaration therein mentioned.

Proviso.

It may be proper, in reference to this subject of offices, to remark, that neither of the acts modifying the form of declaration on accepting office, (1 and 2 Vict. c. 5, and 1 and 2 Vict. c. 15,) was passed at the instance of the Society of Friends; and it should also be observed that previously to the passing of the act for the repeal of the Test and Corporation Acts (9 Geo. IV, c. 17, ante p. 49,) and also again on the occasion of the passing of the two modifying acts (1 and 2 Vict. c. 5, and 1 and 2 Vict. c. 15,) care was taken to represent on behalf of the Society, to members of the government, and to the legislature, not only the objections to the *form*, but the difficulties which would probably be entertained by Friends to the *substance* of the declaration, as involving some compromise of the religious principles which the Society has uniformly maintained in regard to all ecclesiastical establishments.

See also the Caution issued by the Yearly Meeting of the Society of Friends to its members in reference to taking office, Appendix to the Rules of Discipline, title "Civil Government."



## TITHES AND OTHER ECCLESIASTICAL DEMANDS.

1 W. & M. c. 18. BY the said act 1 W. and M. c. 18, Sect. 6, it is  
 Ante p. I. enacted, that nothing therein contained shall exempt  
 Tithes saved. any person from paying of tithes or other parochial  
 duties, or any other duties to the church or minister ;  
 nor from any prosecution in any Ecclesiastical Court  
 or elsewhere for the same.

7 & 8 W. III. c. 34. By the said act 7 and 8 Will. III. c. 34, Sect. 4,  
 Ante p. 32. Reciting that by reason of a pretended scruple of  
 Tithes and church rates. conscience, Quakers do refuse to pay tithes and  
 church rates ; it is enacted that where any Quaker  
 shall refuse to pay, or compound for his great or  
 small tithes, or to pay any church rates, it shall and  
 Justices to summon Friends. may be lawful to and for the two next justices of the  
 peace of the same county (other than such justice  
 Vid. 53 Geo. III. c 127, post. of the peace as is patron of the church or chapel,  
 whence the said tithes do or shall arise, or any  
 ways interested in the said tithes) upon the com-  
 plaint of any parson, vicar, farmer, or proprietor of  
 tithes, churchwarden or churchwardens, who ought  
 to have, receive or collect the same, by warrant  
 under their hands and seals, to convene before them  
 such Quaker or Quakers neglecting or refusing to



pay or compound for the same, and to examine upon oath ; which oath the said justices are hereby empowered to administer, or in such manner as by this act is provided, the truth and justice of the said complaint, and to ascertain and state what is due and payable by such Quaker or Quakers to the party or parties complaining, and by order under their hands and seals to direct and appoint the payment thereof, so as the sum ordered, as aforesaid, do not exceed £10 ;\* and upon refusal by such Quaker or Quakers to pay according to such order, it shall and may be lawful to and for any one of the said justices, by warrant under his hand and seal, to levy the money thereby ordered to be paid, by distress and sale of the goods of such offender, his Distress. executors or administrators, rendering only the overplus to him, her, or them, necessary charges of distraining being thereout first deducted and allowed by the said justice ; and any person finding him, her, or themselves aggrieved by any judgment given by such two justices of the peace, shall and may appeal to the next general quarter sessions, to be Appeal. held for the county, riding, city, liberty, or town corporate ; and the justices of the peace there present, or the major part of them, shall proceed finally

\* Extended to £50, by 53 Geo. III. c. 127, post.

to hear and determine the matter, and to reverse the said judgment, if they shall see cause; and if the justices then present, or the major part of them, shall find cause to continue the judgment given by the first two justices of the peace, they shall then decree the same by order of sessions, and shall also proceed to give such costs against the appellant, to be levied by distress and sale of the goods and chattels of the said appellant, as to them shall seem just and reasonable: And no proceedings or judgment had, or to be had, by virtue of this act, shall be removed or superseded by any writ of *certiorari*, or other writ out of his Majesty's Courts at Westminster, or any other court whatsoever, unless the title of such tithes shall be in question.

Warrant stopt  
on appeal.

Sect. 5. In case any such appeal be made, as aforesaid, no warrant of distress shall be granted until after such appeal shall be determined.

*This act was to continue in force for 7 years, its duration was extended for a further term by 13 Will. III. c. 4, and it was made perpetual by 1 Geo. I. c. 6.*

1 Geo. I. c. 6.  
Ante p. 36.

For recovery  
of tithes, &c.

By the said act 1 Geo. I. c. 6, Sect. 2, Reciting that by 7 and 8 Will. III. c. 34, a remedy was provided for the recovery of tithes and church rates,

where any Quaker should refuse to pay the same;\* it is enacted that such remedy shall be and was thereby extended, and the like remedy shall and may be had and used against any Quaker or Quakers, for the recovery of any tithes or rates, or any customary or other rights, dues, or payments, belonging to any church or chapel, which of right by law and custom ought to be paid, for the stipend or maintenance of any minister or curate officiating in any church or chapel; and any two or more justices of the peace of the same county or place, other than such justice of the peace as is patron of any such church or chapel, or any ways interested in the said tithes, upon complaint of any parson, vicar, curate, farmer, or proprietor, of such tithes, or any churchwarden or chapelwarden, or other person who ought to have, receive or collect any such tithes, rates, dues, or payments, as aforesaid, are thereby authorised and required to summon in writing, under their hands and seals, by reasonable warning, such Quaker or Quakers, against whom such com-

Vid. 53 Geo.  
III. c. 127.  
post.

\* Lord Mansfield, in a MS. case cited by Burn under the head *Tithes*, says "That this act 1 Geo. I, c. 6, extends the act 7 and 8 Will. III. c. 34, concerning tithes, to all customary payments due to clergymen, and that these two acts are to be taken together as one law. They were intended for the benefit of the Quakers, to prevent their being liable to expensive suits, for refusing to pay tithes upon principles of conscience, by giving an apparent compulsory method of levying tithes, and other customary payments in a summary way."

plaint shall be made, and after his or their appearance, or upon default of appearance, the said warning or summons being proved before them upon oath, to proceed to hear and determine the said complaint, and to make such order therein, as in the said act is limited or directed, and also to order such costs and charges as they shall think reasonable, not exceeding ten shillings,\* as upon the merits of the cause shall appear just; which order shall and may be so executed, and on such appeal, may be reversed or affirmed by the general quarter sessions of the county or place, with such costs and remedy for the same, and shall not be removed into any other court, unless the titles of such tithes, dues or payments shall be in question, in like manner as in and by the same act is limited and provided.

27 Geo. II.  
c. 20.

By 27 Geo. II. c. 20, intituled “ An act for the more easy and effectual proceeding upon distresses to be made by warrants of justices of the peace,” it is provided that nothing therein contained shall extend, or be construed to extend, to alter or repeal

\* This sum not exceeding ten shillings is, the compiler apprehends, intended as a compensation to the complainant for his trouble in the business, and out of which he is to pay all expenses by him incurred up to the time of the order for payment made by the justices, and not to be paid to the justice’s clerk, which is often the case; and indeed the order made by the justices directs the same to be paid to the complainant.

any of the provisions or directions relating to dis- Exception.  
tresses to be made for the payment of tithes and  
church rates by the people called Quakers, con-  
tained in the acts of 7 and 8 Will. III. c. 34, and 1  
Geo. I. c. 6.

By 53 Geo. III. c. 127, intituled “An act for 53 Geo. III.  
the better regulation of Ecclesiastical Courts in c. 127.  
England, and for the more easy recovery of church Limitation of  
rates and tithes,” it is by Sect. 5 enacted, that from actions  
and after the passing of this act, no action shall be respecting  
brought for the recovery of any penalty for the not tithes.  
setting out tithes, nor any suit instituted in any  
Court of Equity, or in any Ecclesiastical Court, to  
recover the value of any tithes, unless such action  
shall be brought, or such suit commenced, within  
six years from the time when such tithes became  
due.

Sect. 6. After reciting, that by 7 and 8 Will. III.  
c. 34, where any Quaker shall refuse to pay for or  
compound for his great or small tithes, or to pay  
any church rates, two or more of his Majesty’s  
justices of the peace are authorised to hear and  
determine the same, not exceeding the value of £10;  
and that by 1 Geo. I. c. 6, the said act is extended  
to other objects: And that it is become expedient

Sum enlarged. to enlarge the said sum ; It is enacted that all the provisions of the said acts shall be deemed and taken to extend to any value not exceeding £50 :

One justice competent to receive the complaint.

Provided always, that one justice of the peace shall be competent to receive the original complaint, and to summon the parties to appear before two or more justices of the peace as in the said act is set forth.

### *Observations.*

Besides the above-mentioned acts, there are several others which have at various times been passed by the Legislature in aid of the ecclesiastical laws for compelling the payment of tithes and other offerings and dues. The principal clauses are as follow :

27 Hen. VIII. c. 20.

Every person to pay his tithes.

By 27 Hen. VIII. c. 20, Every subject of this realm, according to the ecclesiastical laws and ordinances of the Church of England, and after the laudable usages and customs of the parish or other place where he dwelleth or occupieth, shall pay his tithes, offerings, and other duties of holy church ; and for subtractions of the same, the party grieved, may by process of the King's ecclesiastical laws of the Church of England convent the person offending before his ordinary or other competent judge, and compel the person offending to yield his said duties ; and in case the ordinary or other competent judge, for any contempt, contumacy, disobedience,

And for subtractions the party to be convented before the ecclesiastical judge.



or other misdemeanor of the defendant, make information and request to any of the King's most honourable council, or to the justices of the peace of the shire where such offender dwelleth, to assist him to order or reform such person in any cause before rehearsed, the King's said honourable council, or such two justices, shall have power to cause to be attached the person against whom such information shall be made, and to commit the same person to ward till he shall have found surety to the use of the King, to give due obedience to the process, decrees, and sentences, of the Ecclesiastical Court wherein such suit shall depend.

By 32 Hen. VIII. c. 7, Sect. 2. In case any persons of 32 Hen. VIII. c. 7. their ungodly and perverse will, withhold any tithes or offerings, then the person or persons, having cause to demand the Persons withholding their tithes. said tithes or offerings, may convent the persons offending before the ordinary, or other competent judge, according to the ecclesiastical laws. And the ordinary or other competent judge, having the parties before him, shall proceed to the examination, hearing, and determination, of such matter, ordinarily or summarily.

Sect. 4. If any persons, after sentence definitive given Persons after judgment refusing to pay. against them, obstinately and wilfully refuse to pay their tithes or duties, or such sums of money wherein they be condemned for the same, two justices shall have authority, upon information, certificate, or complaint, made in writing by the ecclesiastical judge that gave the sentence, to cause the party refusing, to be attached and committed to the next gaol, till he shall have found surety to the use of the King to perform the sentence.

By 2 and 3 Ed. VI. c. 13, Sect. I. Every of the King's 2 & 3 Ed. VI. c. 13. subjects shall justly without fraud, set out and pay all manner



All persons to set out their prædial tithes under the penalty of treble value. of their prædial tithes,\* in kind as they happen, as hath been of right paid within forty years before this act, or of right or custom ought to have been paid: And no person shall carry away any such or like tithes, before he hath justly set forth for the tithe, the tenth part of the same, or otherwise agreed for the tithes with the owner or farmer of the same; under the pain of treble value of the tithes.

Persons carrying away their corn, &c. before setting out tithe. Sect. 2. If any person carry away his prædial tithes, before the tithe be set forth, or willingly withdraw his tithes of the same, or of such other things whereof prædial tithes ought to be paid, or do stop the owners or their farmers, to view and carry away their tithes, by reason whereof their tithe is lost or impaired; upon proof thereof made before the spiritual judge, or any other judge, to whom heretofore he might have made complaint, the party so withdrawing or stopping, shall pay the double value of the tithe so taken, lost, or carried away, besides costs.

\* Tithes with regard to their several kinds or natures may be divided into prædial, mixt, and personal. Prædial tithes are such as arise merely and immediately from the ground; as grain of all sorts, hay, wood, fruit, and herbs: for a piece of land or ground, being called in Latin prædium, (whether it be arable, meadow or pasture,) the fruit or produce thereof is called prædial, and consequently the tithe payable for such annual produce is called a prædial tithe. Mixt tithes are those which arise not immediately from the ground, but from things immediately nourished by the ground as by means of goods depastured thereupon, or otherwise nourished with the fruits thereof; as colts, calves, lambs, chickens, milk, cheese, and eggs. Personal tithes are such profits as arise by the labour and industry of man, employing himself in some personal work, artifice or negotiation; being the tenth part of the clear gain, after charges deducted. Tithes with regard to value, are divided into great and small. Great tithes are chiefly corn, hay, and wood. Small tithes are the prædial tithes of other kinds, together with those which are called mixt and personal. Offerings, oblations, and obventions are the customary payments for communicants at Easter, for marriages, christenings, churching of women, burials, and such like.

Sect. 13. If any person subtract any manner of tithes (not Persons subtracting tithes (not prædial.) prædial) obventions, profits, or other duties, he shall be sued in the King's Ecclesiastical Court ; and it shall not be lawful to the owner or farmer to sue such withholder of tithes, or other duties aforesaid, before any other judge than ecclesiastical. And if any judge give any sentence in the aforesaid causes (and no appeal or prohibition hanging) and the party condemned do not obey the sentence, it shall be lawful to such judge, to excommunicate the party disobeying ; in which sentence of excommunication, if the party wilfully endure forty days, upon publication thereof in the parish church where the party is most abiding, the judge may at his pleasure signify to the King in Chancery the condition of the said party, and thereupon require process *de excommunicato capiendo*.

But by the said act 53 Geo. III. c. 127, It is enacted that Ante p. 61. excommunication with all proceedings following thereupon shall in all cases be discontinued, except as spiritual censures Excommunication discontinued. for offences of ecclesiastical cognizance ; and that no person who shall be declared excommunicate shall incur any civil penalty or incapacity whatever, except imprisonment not exceeding six months, as the court shall direct. And that in all causes cognizable by the Ecclesiastical Courts, when any person shall neglect or refuse to appear or to pay obedience to the orders or decrees of the court, or shall commit a contempt in the face of the court, no sentence of excommunication shall be pronounced ; but instead thereof it shall be lawful for the judge to pronounce such person contumacious, and to signify the same to the King in Chancery, and thereupon a writ *de contumace capiendo* shall issue, which shall have the same force and effect as the writ *de excommunicato capiendo*.

There was also an act 7 and 8 Will. III. c. 6, and which was made perpetual by 3 and 4 Anne, c. 18, for the more easy recovery of small tithes from any persons whomsoever, the amount whereof was not above the yearly value of forty shillings (*extended by 53 Geo. III. c. 127, to not exceeding £10:*) but it is deemed unnecessary here to set out the same, inasmuch as all proceedings against Friends for tithes or other ecclesiastical demands due from them should be under and by virtue of the acts hereinbefore detailed.

It may not be improper to observe, that the Ecclesiastical Courts cannot take cognizance of any dispute whether tithes be due and accustomed, for if the defendant pleads any custom, modus, composition, or other matter, whereby the right of tithing is called in question, this takes it out of the jurisdiction of the ecclesiastical judges: for the law will not suffer the existence of such a right to be decided by the sentence of any single, much less an ecclesiastical, judge, without the verdict of a jury. But where the right does not come into question, but only the fact, it is considered a transient personal injury, for which the remedy may be had in the Spiritual Court; viz. the recovery of the tithes or their equivalent.

By Sect. 2 of the 2 and 3 Ed. VI., power is given to sue for double the value of the tithes before the ecclesiastical judge, which is equivalent to treble the value to be sued for in the Temporal Courts as given by Sect. 1 of the same statute. For a person may sue for and recover in the Ecclesiastical Courts the tithes themselves, or a recompense for them, by the ancient law; to which the suit for the double value is superadded by the statute. But as no suit lay in the courts of common law for the subtraction of tithes themselves,

the statute gave a treble forfeiture if sued for there ; in order to make the course of justice uniform.

By the original Poor Law Amendment Act 4 and 5 <sup>4 and 5 W. IV.</sup> Will. IV. c. 76, Friends were virtually incapacitated for voting <sup>c. 76.</sup> Guardians of <sup>Guardians of</sup> Poor. in the election of Guardians by the provision Sect. 40, which requires the payment of the parochial rates and assessments generally ; but this is now remedied by 7 and 8 Vict. c. 101, <sup>7 and 8 Vict.</sup> sect. 16, which confines this requisite to rates made for the <sup>c. 101, s. 16.</sup> relief of the poor.

By 7 & 8 Geo. IV. c. 17, intituled “ An act to <sup>7 & 8 Geo. IV.</sup> extend the provisions of an act made in the 57th <sup>c. 17.</sup> year of King George the Third, for regulating the <sup>57 Geo. III.</sup> costs of certain distresses,” after reciting that by the <sup>c. 93.</sup> said act intituled *An act to regulate the costs of distresses levied for payment of small rents*, certain regulations are made with respect to the costs and charges of levying and disposing of such distresses where the sum demanded and due shall not exceed £20, it is enacted that from and after the passing of this Act all the rules, regulations, clauses, provisions, penalties, matters and things, in the said act contained, shall extend and be construed to extend and shall be applied and put in execution so far as the

Provisions of recited act extended to distresses for taxes, rates, tithes, &c., not exceeding £20.

same are applicable and capable of being put in execution with respect to any distress or levy which shall be made for any land-tax, assessed taxes, poor's rates, church rates, tithes, highway rates, sewer rates, or any other rates, taxes, impositions or assessments whatever, in all cases where the sum demanded and due for or in respect of such taxes, rates, tithes, assessments or impositions shall not exceed the sum of twenty pounds, and in all cases where the whole of the several sums sought to be levied by distresses taken for different purposes at the same time shall not exceed the sum of twenty pounds; and that such costs and charges and no other shall be taken and payable as the costs and charges of the levy and disposition of such distresses; and that all such proceedings shall and may be had and taken against any and every person transgressing the regulations of the said act in the levying or distraining for any such taxes, rates, impositions or assessments, and all such persons shall be liable to and shall incur such and the like penalties as by the said act are directed, required and imposed with respect to persons making any distress for rent contrary to the directions of the said act, and that in any order or judgment of any justices before whom any complaint shall be preferred in consequence of this act, such order shall be expressed to be made upon

a Complaint for the breach of the said recited act as amended by this act; and that the said recited act and this act shall be taken and construed together as one act to all intents and purposes whatsoever.\*

By 5 and 6 Will. IV. c. 74, intituled "An act 5 & 6 Will. IV. c. 74. for the more easy recovery of tithes," after reciting the acts of 7 and 8 Will. III. c. 6; 53 Geo. 7 & 8 Will. III. c. 6; 53 Geo. III. c. 127; 7 & 8 Will. III. c. 34; and 1 Geo. I. c. 6, and corresponding acts with reference to Ireland, it is by Sect. 1 enacted, that no suit or other proceeding shall be had or instituted in any of His Majesty's courts, either in England or Ireland, now having cognisance of such matter, for or in respect of any great or small tithes, moduses, compositions, rates or other ecclesiastical dues or demands whatsoever, of or under the value of fifty pounds, withheld by any Quaker, either in England or Ireland, but that all complaints touching the same, if in England, shall be heard and determined only under the Proceedings for recovery of tithes of or under the value of £50, withheld by Friends shall be heard only under 7 & 8 Will. III. c. 34, and 53 Geo. III. c. 127.

\* The costs in 57 Geo. III, c. 93, referred to in this act are :—

	£	s.	d.
Levying distress . . . . .	0	3	0
Man in possession, per day . . . . .	0	2	6
Appraisement, whether by one broker or more, sixpence in the £ on the value of the goods . . . . .			
Stamp, the lawful amount thereof . . . . .			
All expenses of advertisements, if any such . . . . .	0	10	0
Catalogues, sale and commission, and delivery of goods, one shilling in the pound on the net produce of the sale . . . . .			



powers and provisions contained in the said recited acts of 7 and 8 Will. III. c. 34, and 53 Geo. III. in the same manner as if the same were herein set forth and re-enacted : Provided always that nothing hereinbefore contained shall extend to any case in which the actual title to any tithe, oblation, composition, modus, due or demand, or the rate of such composition or modus, or the actual liability or exemption of the property to or from any such tithe, oblation, composition, modus, due, or demand, shall be *boná fide* in question, nor to any case in which any suit or other proceeding shall have been actually instituted before the passing of this Act.

Proviso.

Manner of recovering tithes due from Friends.

Sect. 2 enacts, that in case any suit or other proceeding has been prosecuted or commenced, or shall hereafter be prosecuted or commenced, in any of his Majesty's Courts in England or Ireland, for recovering any great or small tithes, modus or composition, for tithes, rate or other ecclesiastical demand, subtracted, unpaid, or withheld by or due from any Quaker, no execution or decree or order shall issue or be made against the person or persons of the defendant or defendants, but the plaintiff or plaintiffs shall and may have his execution or decree against the goods or other property of the defendant or defendants, and in case any person now is detained

No execution is to issue against the person.



in custody in England or Ireland, under any execution or decree in such suit or proceeding, the sheriff or other officer having such person in his custody shall forthwith discharge him therefrom; and the plaintiff or plaintiffs in such suit or proceeding shall and may, notwithstanding such discharge, issue any other execution or take any other proceeding for recovering his demand and his costs out of the property, real or personal, of the person so discharged.

By 4 and 5 Vict. c. 36, intituled “An act to amend 4 and 5 Vict. c. 36.  
 an act of the fifth and sixth years of King William 5 and 6 Will. IV. c. 74.  
 the Fourth, for the more easy recovery of tithes, and  
 to take away the jurisdiction from the Ecclesiastical  
 Courts in all matters relating to tithes of a certain  
 amount,” it is enacted, that from and after the pass- Provisions of  
 recited Act as  
 for recovery  
 of certain  
 tithes and  
 other ecclesi-  
 astical dues,  
 extended to all  
 ecclesiastical  
 courts in Eng-  
 land.  
 ing of this act all the enactments and provisions of  
 the said recited act, respecting suits or other pro-  
 ceedings in any of Her Majesty’s courts in England  
 in respect of tithes, oblations, and compositions, of or  
 under the yearly value of ten pounds, and of any  
 great or small tithes, moduses, compositions, rates,  
 or other ecclesiastical dues or demands whatsoever,  
 of or under the value of fifty pounds, withheld by  
 any Quaker, shall extend and be applied to all Eccle-  
 siastical Courts in England.

## TITHE RENT CHARGES.

6 and 7 Will.  
IV. c. 71.

BY 6 and 7 Will. IV. c. 71, intituled "An act for the commutation of tithes in England and Wales,"

Expenses of  
apportion-  
ment to be  
borne rateably  
by the land-  
owners.

it is by Sect. 75 enacted, that all expenses of or incident to making any apportionment, (except the salary or allowance to any commissioner or assistant commissioner, and except any expense which the commissioners or assistant commissioner may be authorised and may have ordered to be otherwise paid,) shall be borne and paid by the owners of lands included in the apportionment, in rateable proportion to the sum charged on the said lands in lieu of tithes by such apportionment.

Recovery of  
expenses.

Sect. 76 enacts, that if any difference shall arise touching the said expenses, or the share thereof to be paid by any person, it shall be lawful for the commissioners or some assistant commissioner, to certify under their or his hand the amount to be paid by such person; and in case any person shall neglect or refuse to pay his share so certified to be

An additional  
and more  
summary re-  
medy is given  
by st. 2 & 3  
Vict. cap. 62,  
sec. 18.

payable by him, and upon the production of such certificate before any two justices of the peace for the county or other jurisdiction, wherein the lands mentioned in the agreement or award or apportion-

ment are situate, such justices, upon the nonpayment thereof, are thereby required by warrant under their hands and seals, to cause the same and the costs of the distress to be levied by distress and sale of the goods of the person liable to pay the same, and to render the surplus (if any) after deducting the charges of the distress and sale to the person distrained upon.

Sect. 81 enacts, that in case the said rent charge shall at any time be in arrear and unpaid for the space of twenty-one days next after any half-yearly day of payment, it shall be lawful for the person entitled to the same, after having given or left ten days' notice in writing at the usual or last known residence of the tenant in possession, to distrain upon the lands liable to the payment thereof, or on any part thereof, for all arrears of the said rent charge, and to dispose of the distress when taken, and otherwise to act and demean himself in relation thereto as any landlord may for arrears of rent reserved on a common lease for years: provided that not more than two years arrears shall at any time be recoverable by distress.

Recovery of  
arrears of rent  
charge.

Proviso.

Sect. 82 enacts, that in case the said rent charge shall be in arrear and unpaid for the space of forty

Recovery of  
arrears of rent  
charge when

no sufficient  
distress.

days next after any half-yearly day of payment, and there shall be no sufficient distress on the premises liable to the payment thereof, it shall be lawful for any judge of His Majesty's Courts of Record at Westminster, upon affidavit of the facts, to order a writ to be issued, directed to the sheriff of the county in which the lands chargeable with the rent charge are situated, requiring the said sheriff to summon a jury to assess the arrears of rent charge remaining unpaid, and to return the inquisition thereupon taken to some one of His Majesty's Courts of Law at Westminster, on a day therein to be named either in term time or vacation, a copy of which writ, and notice of the time and place of executing the same, shall be given to the owner of the land, or left at his last known place of abode, or with his known agent, ten days previous to the execution thereof; and the sheriff is hereby required to execute such writ according to the exigency thereof; and the costs of such inquisition shall be taxed by the proper officer of the court, and thereupon the owner of the rent charge may sue out a writ of habere facias possessionem, directed to the sheriff commanding him to cause the owner of the rent charge to have possession of the lands chargeable therewith until the arrears of rent charge, found to be due, and the said costs, and also the costs of such writ and of exe-

cuting the same, and of cultivating and keeping possession of the lands, shall be fully satisfied: Pro- Proviso. Provided always, that not more than two years arrears over and above the time of such possession shall be at any time recoverable.

Sect. 83 enacts, that it shall be lawful for the Account, how to be rendered. court out of which such writ shall have issued, or any judge at chambers, to order the owner of the rent-charge who shall be in possession by virtue of such writ, from time to time to render an account of the rents and produce of the lands, and of receipts and payments in respect of the same, and to pay over the surplus (if any) to the person for the time being entitled thereunto, after satisfaction of such arrears of rent charge, and all costs and expenses as aforesaid, and thereupon to order a writ of supersedeas to issue to the said writ of habere facias possessionem, and also by rule or order of such court or judge from time to time to give such summary relief to the parties as to the said court or judge shall seem fit.

Sect. 84 enacts, that in all cases in which it Recovery of rent charges from Friends. shall be necessary to make any distress under this act in respect of any lands in the possession of any person of the persuasion of the people called Quakers, the same may be made upon the goods, chattels, or

effects of such person, whether on the premises or elsewhere, but nevertheless to the same amount only and with the same consequences in all respects as if made on the premises; and that in all cases of distress under this act upon persons of that persuasion, the goods, chattels, or effects which may be distrained shall be sold without its being necessary to impound or keep the same: Provided always, that no writ under the provision hereinbefore contained shall be issued for assessing or recovering any rent charge payable under this act, in respect of any lands in the possession of any person of the persuasion aforesaid, unless the same shall be in arrear and unpaid for the space of forty days next after any half yearly day of payment, without the person entitled thereto being able to find goods, chattels, or effects either on the premises or elsewhere liable to be distrained as aforesaid, sufficient to satisfy the arrears to which such lands are liable together with the reasonable costs of such distress.

7 Will. IV.  
and 1 Vict.  
c. 69.

Rates on rent  
charges may  
be recovered  
from any  
occupier of  
lands out of  
which the  
rent-charge

By 7 Will. IV. and 1 Vict. c. 69, intituled "An act to amend an act for the commutation of tithes in England and Wales," it is by Sect. 8 enacted, that all rates and charges to which any rent-charge payable in lieu of tithes shall be liable may be assessed upon the owner of the rent-charge, and



the whole or any part thereof may be recovered from any one or more of the occupiers of the lands out of which such rent-charge shall issue, in case the same shall not be sooner paid by the owner of the rent-charge, upon whom the same shall be assessed, in like manner as any poor rate assessed on such occupier or occupiers in respect of such lands may be recovered, upon giving to such occupier twenty-one days notice in writing, previous to any one of the half-yearly days of payment of the rent-charge, and the collector's receipt for the payment of such rates and charges, or of any part thereof, shall be received in satisfaction of so much of the rent charge by the owner thereof, but no occupier shall be liable to pay at any one time, in respect of such rates and charges any greater sum than the rent charge, payable in respect of the lands occupied by him in the same parish shall amount to for the current half-year in which such notice shall have been given.

issues, and the collector's receipt to be received in satisfaction for so much of the rent charge.

By 2 and 3 Vict. c. 62, intituled "An act to explain and amend the acts for the commutation of tithes in England and Wales," after reciting 6 and 7 Will. IV, c. 71; 1 Vict, c. 69, and 1 and 2 Vict. c. 64, it is by Sect. 18 enacted, that payment of the expenses of or incident to making any apportionment or any other expenses which the said commis-

2 & 3 Vict. c. 62.

6 & 7 W. IV. c. 71; 1 Vict. c. 69; 1 & 2 Vict. c. 64.

Expenses of apportionment may be recovered in



the same way  
as rent charge.

sioners are authorized, and may have ordered or may order to be paid by any owner of lands under and by virtue of the recited acts, or any of them or this act, may be enforced by the same ways and means as payment of rent charge in arrear may be enforced under the provisions of the said acts, or either of them.

### *Observations.*

A perusal of the extracts from Acts of Parliament which are given under this and the preceding head, will show that the Legislature many years ago intended to provide, and to a considerable extent effected it, a summary and cheap remedy for the recovery of Ecclesiastical demands from Friends where the amount did not exceed £10, (subsequently extended to £50,) and more recently they have extended further relief to Friends by wholly excluding the jurisdiction of the Courts of Law and Equity, and the Ecclesiastical Courts, in all cases where the amount claimed is under £50, unless the actual title to any such claim, or the actual liability or exemption of the property to or from any such claim, shall be *bonâ fide* in question, and by the abolition of all imprisonment in the case of Friends on account of Ecclesiastical demands. Friends are also relieved in common with others by the provision for limiting the costs of distraint on distresses for sums under £20. With respect to the limitation contained in the act 1 Geo. I. c. 6, of the costs to ten-shillings, it is not an unfrequent practice for the clerk to the justices to take that sum for the warrant,

but which it must be clear is erroneous. The justices at the time of adjudication, which is before they know that any Warrant will issue, are to order such costs as they shall think reasonable, not exceeding ten shillings, which costs must, as a matter of course, be the fees incurred for the summons and serving and the adjudication, and a compensation, if they think fit, to the claimant for his trouble.

In reference to the legality of including several defaulters in the payment of Ecclesiastical demands in one Warrant of Distress, a case was prepared in the year 1831, as follows:

“By several statutes, and particularly by the 7th and 8th Will. III. c. 34, and 53 Geo. III. c. 127, the Legislature has made various provisions for the relief of the conscientious scruples of the Quakers, against the payment of Tithes, Church rates, and other Ecclesiastical demands; and in order to lessen the expense of enforcing these claims, has provided a summary process before two justices of the peace.

“It has happened, in several instances, of late years, that magistrates, especially in districts where Quakers are numerous, have, with a view to keep the charges within reasonable limits, included several defaulters in one Warrant of Distress.

“In other cases, the justices, though equally desirous of treating the sufferers with lenity, have declined to adopt this course, till they were satisfied, by a legal opinion of weight and authority, that the practice in question was not contrary to law.

“In support of the legality of the above course, it has been considered, that where several defaulters are named in the same Warrant, and the constable is directed to levy the demand claimed from each, by distress and sale of his goods

and chattels respectively, such a Warrant amounts in effect to several distinct Warrants on one and the same piece of paper ; and it has been apprehended that the constable might plead it as such, in any proceedings instituted against him by any one of the defaulters ; and on the other hand, that any of the defaulters might take exceptions against that part of the Warrant which affected himself, if irregular, in precisely the same manner as if it were a distinct Warrant.

“ It may further be proper to observe, that in several local acts for compounding tithes, &c., a course similar to the above is expressly pointed out by the Legislature, and a form of Warrant given. Amongst others, see 6 Geo. IV. c. clxxvi. s. 19 ; 7 Geo. IV. c. cxvi, s. 22 ; 10 Geo. IV. c. xiv. s. 22, (local and personal.) It is therefore conceived that the Legislature must have considered such a proceeding as not open to any difficulties or objections, on the part of either the constable or the defaulter, or it would not have directed its adoption, at any rate without making some provision to meet such difficulties or objections.”

The case was laid before Sir Thomas (now Lord) Denman, the then Attorney General, for his opinion whether, if several defaulters are included in one Warrant of Distress, under 7th and 8th Will. III. c. 34, or 53 Geo. III. c. 127, the demands against them being of a similar nature, such Warrant would be valid, so as to prevent the magistrates who granted, and the officers who executed it, from incurring any legal liability beyond what they would incur by granting separate Warrants. His opinion was :—“ I think such Warrants are undoubtedly legal.” The same case was laid before Sir James Scarlett (afterwards Lord Abinger,) who said :—“ It appears to me,

that there would be no risk, nor any objection result from comprising several defaulters in one Warrant, taking care that the case of each is sufficiently distinguished from the other; such an instrument is in effect a separate Warrant against each defaulter."

It will be observed that in the recovery of the rent charge in lieu of tithes, the remedy is extremely simple, not requiring the intervention of magistrates or constables, only such a procedure as every landlord is enabled to take for the recovery of rent from his tenant.

## THE MILITIA AND MILITARY SERVICE.

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### *Regular Militia.*

42 Geo. III.  
c. 90.  
Notice to  
housekeepers  
to produce  
lists.

BY 42 Geo. III. c. 90, intituled “ An act for amending the laws relating to the Militia in England, and for augmenting the Militia,”\* It is enacted, Sect. 26, that the several constables, tithing-men, headboroughs, and other officers and persons required to return lists, (*that is, lists of the names of all the men usually and at the time of making such lists, dwelling within their respective parishes, &c. between the ages of 18 and 45 years, to be returned to the deputy lieutenants,*) shall, within fourteen days after any such returns shall be required, give or leave notice in writing to or for every occupier of every dwelling-house where any person shall reside, within the limits of the places for which they act, as such constables or other officers as aforesaid in the execution of this act, or any of the provisions thereof, at his or her dwelling-house, or where such dwelling-house shall be divided into different stories or apart-

\* The militia in Scotland is raised under 42 Geo. III. c. 91 ; Sect. 22 of which is similar to Sect. 27 of the English act ; Sect. 28, relating to the appointment of deputies to Friends who are constables, is nearly similar to Sect. 33 of the English act ; and Sections 45 and 46, relating to Friends who are ballotted, and defining who shall be deemed Friends, are nearly the same as Sects. 50 and 51 of the English act.

ments, and occupied distinctly by several persons, then, to or for the occupier of each distinct story or apartment, to prepare or produce within fourteen days, next ensuing the day of giving such notice, a list in writing, to the best of his or her belief, of the christian and surname of each and every man resident in such dwelling-house, or distinct story or apartment, between the ages of 18 and 45, distinguishing every person in such dwelling-house, or distinct story or apartment, of such age as aforesaid, claiming to be exempt from serving in the militia, together with the ground of every such claim of exemption; and every such notice shall mention the day, time, and place, appointed for hearing appeals within such sub-division, by persons claiming to be exempt from serving in the militia; and every such occupier shall, after such notice so given or left, make out such list, and sign the same with his or her own name, and shall deliver the same, or cause the same to be delivered, to such constable, or other officer or person as aforesaid; and if any occupier shall neglect or refuse to make out, sign, and deliver such list as aforesaid, within the time before limited, or shall omit any person who ought to have been included therein, in pursuance of this act, or knowingly make any false return of any particular required therein, every such occupier shall, for every such

Penalty for  
not delivering  
lists, or  
making false  
returns.

offence, forfeit and pay a sum not exceeding the sum of five pounds.

Friends to  
produce cer-  
tificates of  
their being  
such.

Sect. 27. In every case where any notice shall be served upon any occupier being one of the people called Quakers, such occupier shall, within seven days after the service of such notice, produce to the constable or other officer, a certificate under the hands of two or more reputable housekeepers being of the people called Quakers, acknowledging such person to be one of their persuasion;\* and that in all such cases, such constables or other officers are hereby required to make returns of the persons liable to serve in the militia, resident in the houses, stories, or apartments of such occupiers so certified to be of the people called Quakers, in the same manner as is directed by this act in cases where returns are not made to such notices as aforesaid.†

\* The certificate required to be produced by Friends under as well the regular as the local militia acts, and also under the annual training act, may be very properly in the following form; it must be signed by persons resident within the same county or place as the Friend for whom the certificate is given, and must be dated within three months immediately preceding the day on which it is produced.

We, the undersigned, being housekeepers and members of the Society of Friends, commonly called Quakers, resident within the parish, city, or county (*as the case may be*) of \_\_\_\_\_ do hereby certify and acknowledge A. B. resident within the aforesaid parish, city, or county (*as the case may be*) to be one of our persuasion.

C. D.

Dated the \_\_\_\_\_ day of the \_\_\_\_\_ month, 184 .

E. F.

† In 46 Geo. III. c. 91, intituled "An act for the return of correct lists of persons liable to serve in the militia, under an act passed in the



Sect. 29. If any person whose name shall be inserted in any list, in pursuance of this act, shall think himself aggrieved thereby, or by the omission of any other name or names, or shall claim to be exempted from serving in the militia, it shall be lawful for such person, and he is hereby required to appeal to the sub-division meeting appointed to be held for hearing such appeals ; and any two or more of the said deputy-lieutenants are hereby empowered and required to hear and determine all such appeals, and if the same cannot be heard on the day first appointed, to adjourn to any other day or days ; and the determination of any two deputy-lieutenants, if only two are then and there assembled, or of the major part of them, if more than two are assembled, shall be final to all intents and purposes ; and no appeal shall be afterwards heard or allowed, or any

Persons  
aggrieved  
may appeal.

forty second year of his present Majesty, and to suspend the ballot for the militia in England for two years," and in 47 Geo. III. c. 71, intitled " An act for the speedily completing the militia of Great Britain and increasing the same under certain limitations and restrictions," there is a general reference to the 42 Geo. III. c. 90, extending all powers, provisions, and regulations contained therein (as far as the same are applicable) to those acts respectively, and consequently extending to it, amongst other provisions, that (Sect. 27) which exempts the people called Quakers from the general requisition to occupiers of houses, &c. to make returns of such men, between the ages of 18 and 45, as are resident in their respective dwelling houses ; also that (Sect. 33) which is in favour of those of the said people who may be constables, head-boroughs, tithing-men, or overseers of the poor : proper certificates of the religious persuasion of the parties being in both cases produced.

exemption whatever claimed or admitted, by or on behalf of any person or persons whatever.

43 Geo. III.  
c. 50.  
Penalty on  
neglecting to  
appeal.

But by 43 Geo. III. c. 50, intituled “ An act for more speedily completing the militia of Great Britain, raised under two acts, passed in the 42nd year of the reign of his present Majesty, and for amending the said acts,” Sect. 13 enacts, that on the making out or amending of any lists of persons fit to serve in the militia, every person who shall wilfully neglect to appeal\* within the time appointed for that purpose, shall forfeit for every such offence any sum not exceeding twenty shillings, nor less than five, at the discretion of any two or more deputy-lieutenants, or justices of the peace, or magistrates; and, on nonpayment thereof, be imprisoned at the discretion of any two or more deputy-lieutenants, or justices of the peace, or magistrates as aforesaid, for any time not exceeding one week.

42 Geo. III.  
c. 90.  
Justices may  
appoint  
deputies to  
Friends being  
constables.

By the aforesaid act, 42 Geo. III. c. 90, Sect. 33, If any chief or other constable, head-borough, tithingman, or overseer, shall be of the people called Quakers, (and certified to be so by two persons of the people called Quakers,) and shall neglect or

Ante p. 84.  
note.

\* This is applicable to every person who has some legal objection to the return of his name.

refuse to perform the duties required by this act, it shall be lawful for any two justices of the peace acting for the division within which such Quaker shall be such officer as aforesaid, and they are hereby required, in all cases where the circumstances of the case shall, in their judgment, render it expedient and necessary for the due execution of the provisions of this act, by their order, under their hands and seals, to appoint a fit and proper person to be deputy to such Quaker, for the purpose only of carrying this act into execution ; and every person so appointed deputy as aforesaid, shall have and exercise all the powers, authorities, and jurisdictions given by this act to such officer for whom he shall so act, and shall do and perform all the like duties and offices, under the like pains, penalties, and forfeitures, as are hereby imposed for neglect of duty of any such officer as aforesaid, in like manner in every respect as the person for whom he shall so act ; and where an appointment of any deputy shall be so made, the principal chief constable, headborough, tithing-man, or overseer, (being one of the people called Quakers,) shall be, and he is hereby discharged from the performance of any duty required of him by this act, and from all penalties incurred for neglect thereof after the time of such appointment.

Parishes may offer volunteers without balloting.

Sect. 42. If the churchwardens or overseers of the poor of any parish, tithing, or place, shall with the consent of the inhabitants taken at a vestry, or at any other meeting to be holden for that purpose, for the calling of which vestry or meeting, three days public notice shall be given, specifying the cause of calling such vestry or meeting, provide and produce to the said deputy-lieutenants, or any two or more of them, at any sub-division meeting for choosing the militia men by ballot, any volunteer or volunteers who shall be examined and approved as is hereinafter mentioned, such volunteer or volunteers so examined and approved shall be then and there sworn in and enrolled to serve for such term, and on the same conditions, as is provided in the case of substitutes produced by persons chosen by ballot; and the said deputy-lieutenants shall cause only such number of persons to be chosen by ballot out of the list returned for such parish, tithing, or place, as shall be then wanted to make up the whole number to serve for such parish, tithing, or place: And if any

Overseers, &c. may make rate for payment of bounties to volunteers.

such churchwardens or overseers shall give to such volunteer or volunteers any sum or sums of money not exceeding six pounds each, to serve in the militia for such parish, tithing, or place, it shall be lawful for such churchwardens or overseers to make a rate upon the inhabitants of such parish, tithing, or

place, according to the rate then made for the relief of the poor, which rate (being approved by any justice of the peace) it shall be lawful for such churchwardens or overseers to collect, and to reimburse themselves such sum or sums of money as they shall have paid to such volunteer or volunteers as aforesaid, and the overplus (if any) shall be applied as part of the poor's rate: And if any person shall refuse to pay such rate, it shall be lawful for any justice of the peace upon complaint thereof <sup>Vid. Sect. 51, post.</sup> made by any such churchwarden or overseer, by warrant under his hand and seal, to levy the same by distress and sale of the offender's goods and chattels, returning the overplus (if any) after the said rate, and the charges of such distress and sale shall be paid: But no person chosen by ballot, who shall have served in the militia, either by himself or by substitute, according to the directions of this act, or any other act or acts, or who shall be then serving himself or by substitute, shall be liable to pay any such rate: Provided always, that if any person shall <sup>Appeal.</sup> think himself aggrieved by any such rate, as aforesaid, such person may appeal to the next general or quarter sessions, in like manner as is provided in the case of appeals against rates for the relief of the poor.\*

\* It appears that the rate mentioned in the present clause is to be a special one: This is clear as well from the words "*A Rate—according*

Certain persons exempt from service.

Sect. 43. *Amongst others mentioned in this clause*, no constable or other peace officer, nor any articulated clerk, apprentice, seaman, seafaring man, nor any poor man who has more than one child born in wedlock, shall be liable to serve personally, or provide a substitute to serve in the militia; and no person having served personally, or by substitute, according to the directions of any former act or acts relating to the militia, or under this act, shall be obliged to serve again, until by rotation it shall come to his turn.

Friends being balloted.

Sect. 50. If any person, being one of the people called Quakers, shall be chosen by ballot to serve in the militia, and shall refuse or neglect to appear, and to take the oath, and serve in the militia, or to provide a substitute of the same county, riding, or place, or of some adjoining parish or place, to be examined and approved as thereafter directed, who shall take the said oath, and subscribe his consent to serve as the substitute of such Quaker, then and in every such case, any two or more deputy-lieutenants shall, if they shall think proper, upon as

*to the rate then made for the relief of the poor*" as from the consideration that "no person chosen by ballot, who shall have served in the militia, either by himself, or by substitute," &c. will be liable to pay any such rate. By Sect. 122, another rate is in a certain case directed to be made, and it is evident from the words of the act, that there also a special rate is required.



reasonable terms as may be, provide and hire a fit person of the same county, riding, or place, or of some adjoining parish or place, to serve as a substitute for such Quaker; and such substitute shall, after being duly examined and approved, take the said oath, and subscribe his consent to serve in the militia, for the same term and on the same conditions as is thereinbefore directed in the case of substitutes produced by persons chosen by ballot; and any two or more deputy-lieutenants may and are hereby authorised, by warrant under their hands and seals, to levy by distress and sale of the goods and chattels of such Quaker, such sum of money as shall be necessary to defray the expense of providing and hiring such substitute, rendering to such Quaker the overplus (if any,) after deducting the charges of such distress and sale; and if no goods or chattels belonging to such Quaker be found sufficient to levy such distress, *and it shall nevertheless appear satisfactorily to such deputy-lieutenants that such Quaker is of sufficient ability to pay the sum of ten pounds,\** then it shall be lawful for such deputy-lieutenants to commit such Quaker to the common gaol, there to remain, without bail or mainprize, for the space of

\* From this provision it would appear that if a Friend is not of sufficient ability to pay the sum of £10, he is not liable to either fine or imprisonment.



three months, or until he shall have paid such sum of money as such deputy-lieutenants shall have agreed to pay to such substitute as aforesaid: And in case any measures shall be used in making distress as aforesaid, which may be by any such Quaker thought oppressive, it shall be lawful for such Quaker to complain to the deputy-lieutenants at their next meeting, who are hereby empowered and required to hear and finally determine the same.

Vid. p. 88.

Friends refusing to pay rate.

Who shall be deemed Friends.

Sect. 51. Where any rate shall have been made for the providing of volunteers according to the directions of this act, and the churchwardens and overseers shall make complaint to a justice of the peace that any Quaker or Quakers had refused to pay the sum or sums of money he or they shall be rated at, such justice shall order such costs and charges to be paid for levying such distress, as he shall think reasonable, not exceeding ten shillings on each of the said Quakers, where there are no more than two, and where there are a greater number than two, not exceeding five shillings on each of the said Quakers: Provided always, that no man shall be deemed, taken, and accepted to be a Quaker within the meaning of this act, unless he shall produce, before the deputy-lieutenants, at some of their sub-division meetings, a certificate under the hands

of two or more reputable housekeepers, being of the people called Quakers, resident within the said county, riding, or place, and dated within the three months immediately preceding the day on which it shall be produced as aforesaid, acknowledging such man to be one of their persuasion. Vid. p. 84. note.

*The form of a certificate applicable to the latter part of this clause, may be seen in p. 84, note.*

By the said act, 43 Geo. III. c. 50, Sect. 12, It is enacted, that where any deputy-lieutenant shall provide any substitute for any Quaker, under the provisions of the said recited acts, the sum of money which such deputy-lieutenants shall have agreed to give to such substitute, shall be paid to such substitute upon the certificate of such deputy-lieutenant, by the overseer of the poor of the parish, tithing, or place, for which such substitute shall be provided, out of the poor rates for such parish, tithing, or place; and such sum of money shall be levied in manner directed by the said act, and repaid to the overseers who shall have advanced the same. 43 Geo. III. c. 50. Overseers to pay money for substitutes. Vid. p. 91.

By the aforesaid act 42 Geo. III. c. 90, Sect. 53, It is further enacted, that whenever it shall 42 Geo. III. c. 90. Vacancy by person

ballotted  
being infirm,  
or short of  
size.

appear to any two or more deputy-lieutenants assembled at any sub-division meeting, that any person chosen by ballot to serve in the militia, is not of the full height of five feet four inches, or is not approved, upon examination by a surgeon, according to the directions of this act, and is not seised or possessed of an estate in land, goods, or money, of the clear value of one hundred pounds, and who shall make oath that he is not seised or possessed of such estate, such deputy-lieutenants shall, and are hereby empowered and required to discharge such person, and immediately to amend the list for the place for which such person shall have been ballotted, and to cause another person to be chosen in his stead by ballot, according to the directions of this act.

Providing  
carriages.

Sect. 95. When the militia shall be called out to be trained and exercised, any justice being thereunto required, *as in the act is mentioned*, shall issue his warrant to the constables, &c. requiring them to provide such carriages, &c. as shall be mentioned in the said warrant: and the constables, &c. shall order such persons having carriages as they shall think proper, to provide and furnish the same according to the said warrant; and every person so ordered, is

required to provide and furnish the same for one day's journey and no more.

Sect. 122. In case any person not possessed of any estate in land, goods, or money, of the clear value of £500, and who shall make oath that he is not possessed of such estate, shall be chosen by ballot to serve in the militia for any parish, tithing, or place where the said militia is drawn or ordered out for actual service, and such person shall be approved, sworn, and enrolled as aforesaid, or shall provide a fit person to serve as his substitute, who shall be approved, sworn, and enrolled as aforesaid, the churchwardens or overseers of the poor of such parish, tithing, or place, shall, on receiving an order under the hands of any two or more deputy-lieutenants acting within the sub-division wherein such parish, tithing, or place, is situate, pay to every such person so chosen by ballot, any such sum of money, not exceeding the sum which such deputy-lieutenants shall adjudge to be as near as may be one half of the current price then paid for a volunteer, or substitute, in the county, riding, or place, where such person was so chosen, which said sum of money shall be taken out of the rate to be made as hereinbefore directed, for providing and producing volunteers, or in case no volunteers shall have been

Certain persons intitled to a sum of money.

provided or produced by the churchwardens or overseers, then out of a rate to be made and collected agreeable to the poor's rate as hereinbefore also directed. *See note in p. 89 for an observation respecting this rate.*

Overseers to pay fines for men deficient out of the poor rates.

Sect. 161. The overseers of the poor of the several parishes and tithings upon which any such rate or assessment shall have been made as in the said act aforesaid,\* shall, within fourteen days after notice from the treasurer of the county, riding, or place, pay the amount of the rate or assessment made upon their respective parishes or tithings, out of any money in their or any of their hands, of the rates for the relief of the poor; and if they or any of them shall not have sufficient of such money for that purpose, then such overseers shall, and they are hereby required to make a rate sufficient to satisfy such rate and assessment; and it shall be lawful for the said overseers to levy and collect the same in such manner as rates made for the relief of the poor, or any other rates made for the purposes of this act, may be levied and collected.

\* This refers to a rate to be made by the justices of the quarter sessions upon every county, hundred, parish, tithing, or place, for which the quota required under this act shall not have been raised and completed by a certain time.

*Militia of the Tower Hamlets.*

By the said act 42 Geo. III. c. 90, (*viz. the Regular* <sup>42 Geo. III. c. 90.</sup>  
*Militia Act, see ante p. 82.*) Sect. 153, after reciting  
that the Militia of the Tower Hamlets are raised and  
regulated by 37 Geo. III. cc. 25 and 75, and that the <sup>37 Geo. III. cc. 25 & 75.</sup>  
same are thereby made subject to certain of the  
provisions contained in 26 Geo. III. c. 107, by this <sup>26 Geo. III. c. 107.</sup>  
act repealed, it is enacted, that, from and after the  
passing of this act, all and every the clauses, pro-  
visions, powers, authorities, punishments, bounties,  
penalties, forfeitures, matters, and things in this act  
contained, in relation to any persons, acts, matters,  
and things as to which the said act 26 Geo. III.  
c. 107, or any of the clauses or provisions thereof,  
were in force or applicable as to the said militia,  
shall from and after the passing of this act, be  
applied, practised, and put in full force as to all such  
persons, matters, and things, as far as the same can  
be applied, and are not contrary to any of the pro-  
visions of the said respective acts, or either of them,  
as fully and effectually in all respects, as if the said  
acts and this act, and the respective provisions  
thereof, were consolidated into one act: Provided  
always that nothing in this act contained shall be  
construed to extend to repeal any of the provisions  
of the said acts, or either of them, other than such

as are in and by the said acts made subject to the rules, regulations, clauses, powers, and provisions of the said recited act of the twenty-sixth year aforesaid.\*

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*Militia of the City of London.*

1 Geo. IV.  
c. 100.  
Certain acts  
repealed.

By 1 Geo. IV. c. 100, intituled “ An act for amending and reducing into one act of Parliament, two several acts, passed in the thirty sixth and thirty ninth years of the reign of his late Majesty King George the Third, for the better ordering and further regulating of the Militia of the City of London :” Sect. 1, It is enacted, that the said recited acts (*viz. the acts mentioned in the title*) should be, and the same are thereby repealed.

Powers of  
regular militia  
acts extended  
to this act.

Sect. 42. All the powers and authorities, clauses, provisions, rules, and regulations of any act or acts of Parliament that then were or thereafter should be in force for regulating the militia in England, or the pay of the same, and for the regulating of the number of officers, non-commissioned officers, drummers and

\* The purport of this clause is to make the present (42 Geo. III. c. 90,) instead of a previous act, applicable in certain respects to the militia of the Tower Hamlets.



fifers, to be serving in the said militia, and in all other respects whatsoever, so far as the same are not altered or varied by this act, and can be made applicable thereto, shall extend and be applied and be put in force as to the militia to be raised by virtue of this act, as fully and effectually as if the same were severally and separately re-enacted in and made part of the body of this act.\*

Sect. 11. The aldermen or deputies, and com-<sup>Rate to be</sup>mon council-men of the several wards of the said city and liberties, or the major part of them, shall from time to time, as occasion may require, make an equal rate upon all and every person and persons, &c. <sup>made.</sup> who do or shall inhabit, hold, occupy, possess, or enjoy any land, house, shop, warehouse, vault, cellar, or other tenements or hereditaments, within the said several wards, and the liberties and precincts within the same, regard being had in making the said rate to the abilities of, and likewise to the rent paid by the said several person and persons, &c. to defray the expense of raising and maintaining the quota

\* Under this general reference, Friends would be entitled to any privileges contained in the regular militia acts, in their favour; but as the militia in London is raised by bounty, and not by ballot, the clauses respecting Friends being drawn, &c. do not there come into operation. They are, however, liable to be distrained upon for their proportion of rates, for the payment of bounties under Sect. 13, of the London militia act, *see post*, page 100.

or number of men to serve in the said militia, and all other incidental charges relating thereto.

Appeal  
against rate.

Sect. 12. In case any person or persons shall think him, her, or themselves aggrieved by any rate or assessment to be made as aforesaid, it shall and may be lawful for them respectively to appeal to the Court of Mayor and Aldermen of the said city, whose decision shall be final and conclusive: Provided, that notice of such appeal shall be left in writing, at the office of the town clerk of the said city, within ten days after the sum so rated and assessed, shall be demanded; and such appeal shall be made to the next Court of Mayor and Aldermen of the said city, after such notice shall be so left as aforesaid.

Rates may be  
levied by  
distress.

Sect. 13. If any person or persons, &c. who shall be rated and assessed by virtue and in pursuance of this act, shall refuse or neglect, by the space of fourteen days next after his or their respective rate or rates, assessment or assessments, shall be due, and demanded by the collector or collectors, authorised and appointed, either by the alderman, or his deputy and common council-men for the time being, in each ward, or the major part of them, or by the said commissioners, (*viz.* *commissioners of*

*lieutenancy*) in case the said alderman, deputy, and common council-men, or the major part of them, shall refuse, omit, and neglect to make the rate or assessment, and appoint collectors to collect and receive the same, such demand being left in writing by the said collector or collectors at the land, house, shop, warehouse, vault, cellar or other tenement, hereditaments, premises, or other property, possessed, rented, or occupied by him, her, or them, to pay such rate or rates, assessment or assessments, so demanded as aforesaid, (unless notice of appeal shall have been left as aforesaid) or if any such notice be left, and if such appeal shall not be made accordingly at the next court of mayor and aldermen of the said city, as aforesaid; then, and in every such case, it shall and may be lawful to and for such collector or collectors, every or any of them, having a warrant or warrants under the hand and seal of the mayor or any other magistrate of the said city, which warrant or warrants the said collector and collectors is and are hereby required to apply for, and the mayor, or any other magistrate of the said city, is hereby authorised and required to grant, and with the assistance of a constable or any peace officer of the ward, county, city, or liberty, where the person or persons so refusing or neglecting shall reside, there to seize and distrain any of the goods

and chattels of the person or persons so neglecting or refusing to pay ; and if the same shall not be relieved, or such rate or assessment paid within five days next after such distress made, together with the costs and charges thereof, then to appraise and sell so much and such parts of the said goods and chattels as shall be sufficient to pay the said rate or assessment, and the costs and charges attending such distress and sale, returning the overplus (if any) to the owner or owners of such goods and chattels ; and the said costs and charges to be settled and allowed by the said mayor or other magistrate who shall have granted such warrant or warrants respectively : Provided that no distress shall by virtue of this act be made out of the limits of the said city or liberties thereof, unless such warrant or warrants respectively shall be first backed or countersigned by some magistrate of the county, city, or liberty, where such distress is proposed to be made, which warrant or warrants any magistrate who shall be applied to for that purpose shall forthwith, and is hereby authorized and required, to back or countersign without fee or reward.

How the charges of militia are to be defrayed.

Sect. 35. For defraying the necessary charges and incidental expenses of the said militia, it shall be lawful for the said commissioners to continue to

raise and levy as heretofore, in every year the proportion of one month's tax, amounting to four thousand six hundred and sixty six pounds thirteen shillings and four pence, which the said city hath been used to pay by virtue of 13 and 14 Chas. II. and no warrant shall be issued for the raising of any trophy money, till the justices, at some general or quarter sessions for the said city, shall have examined and allowed the accounts of the trophy money last raised, levied, and collected, and certified such examination of the accounts, under the hands and seals of three or more of such justices, to the said commissioners.

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*Miners in Cornwall and Devon.*

By 42 Geo. III. c. 72, intituled “ An act for repeal-<sup>42 Geo. III.</sup>  
<sup>c. 72.</sup> ing an act, made in the thirty eighth year of the reign of his present Majesty, intituled, ‘ An act for raising a body of miners in the counties of Cornwall and Devon, for the defence of the kingdom during the present war;’ and for the more effectually raising and regulating a body of miners for the defence of Great Britain:” It is (Sect. 16) provided, that if any person ballotted to serve in the said regiment, shall be one of the people called

Quakers, the same proceedings shall be had with respect to such person, as may be had with respect to a Quaker ballotted to serve in the militia in England; (*See Regular Militia, page 82,*) and all and every the provisions with respect to the people called Quakers, in the several acts concerning the militia forces of England, shall be carried into execution in the levying of men to be raised by virtue of this act, in the same manner, and as fully and amply as if the same had been repeated and enacted in the body of this act.

*Annual Training.*

46 Geo. III.  
c. 90.  
Certain persons not  
exempt.

By 46 Geo. III. c. 90, intituled "An act to enable his Majesty annually to train and exercise a proportion of his subjects in England, under certain regulations, and more effectually to provide for the defence of the Realm,"\* It is enacted, (Sect. 5) that no artied clerk, nor apprentice, nor any poor man who has more than one child, born in wedlock, nor any person serving by substitute in the militia, or under any act for raising any additional force for the defence of the realm, shall by reason thereof be exempt from this act.

\* This act not having, so far as the Compiler observes, been repealed, is here noticed; though he apprehends it was virtually superseded by the establishment of the local militia.

Sect. 20.\* If any person, being one of the people Friends exempt on payment of £7 to 20s. called Quakers, or of the people called Unitas Fratrum, or United Brethren, who shall be ballotted under this act, shall produce before any of the deputy-lieutenants at any sub-division meeting, or any two deputy-lieutenants or justices of the peace, a certificate under the hands of two or more respectable housekeepers, being of the people called Ante p. 84. note. Quakers, or of the people called Unitas Fratrum, or United Brethren, resident within the county, or place of residence, of such person, and dated within three months immediately preceding the day on which such certificate shall be produced, acknowledging such person to be one of their persuasion, such person shall not be enrolled for training or exercise, or if he shall have been enrolled, shall be struck out of the enrolment; and it shall be lawful for any such deputy-lieutenants or justices to adjudge any such person to pay such proportion of fines imposed by this act, on persons enrolled for non-attendance at training and exercising, not exceeding seven pounds, nor less than twenty shillings, for the year in which he shall have been so ballotted, as to such deputy-lieutenants or justices may appear

\* In balloting for the persons to be trained under this act, recourse is to be had to the returns of men between the ages of 18 and 45, made under any act or acts relating to the militia.



to be proper, according to the situation in life, and property of such person, and the amount of fine so adjudged by such deputy-lieutenants or justices may be levied by distress and sale of the goods and chattels of such person, by warrant under their hands and seals, (the overplus, if any, after deduction of reasonable charges, being rendered to the party,) and if no goods or chattels can be found, then they may commit him to prison, for any time not exceeding fourteen days, unless such sum be sooner paid.

*A form applicable to the certificate required by this clause, may be seen in page 84, note.*

Justices may appoint deputies for Friends refusing to act as constables, &c.

Sect. 21. If any constable, head-borough, tithing-man, or overseer shall be of the people called Quakers, (and so certified to be by two Quakers) and shall neglect or refuse to perform the duties required by this act, any two justices acting within that division shall, if they think it expedient, by their order, under their hand and seal, appoint a fit person to be such Quaker's deputy, for the purposes only of this act, who shall act and be subject to the provisions of this act as the person originally appointed, and such person shall be altogether discharged from the duties required and penalties imposed by this act.

Sect. 28. The lieutenant or deputy-lieutenants at any general meeting, and the deputy-lieutenants within their respective sub-divisions, may, when they judge it expedient, appoint from those who under this act would be exempt from enrolment, such a number of those usually resident in any parish, who may be willing to undertake the duty of constables under this act, to be special constables for all or any of its provisions within such parish as they shall think fit, or to appoint any persons to act as constables instead of Quakers, according to any militia act, and the deputy-lieutenant shall cause the names of such special constables to be given to the chief constable or other proper officer of the district, and such special constables shall do all things in this act contained, as any other constables may.

General and sub-division meetings may appoint special constables out of persons exempt from military service.

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### *Local Militia.*

By 52 Geo. III. c. 38, intituled “ An act for amend-  
 ing the laws relating to the Local Militia in Eng-  
 land;”<sup>\*</sup> It is enacted (Sect. 21) that all such

75 Geo. III.  
 c. 38.  
 Provisions of  
 former acts  
 to extend to  
 this.

\* This act repeals sundry preceding acts on the subject of the local militia, the first of which is 48 Geo. III. c. 3.

The local militia in Scotland, is raised and regulated by 52 Geo. III. c. 68, by Sect. 19, of which certain powers of former acts relating to the

powers, provisions, rules, regulations, clauses, matters, and things contained in the forty-second year of George Third, chapter ninety, forty-sixth year of George Third, chapter ninety-one, and forty-ninth year of George Third, chapter eighty-two, or in any other act relating to the militia, as relate to the appointing and holding general and sub-division meetings of lieutenancy, or to the making out lists from which to ballot, or to the mode of balloting shall, as far as the same are applicable and can be applied to and for the purposes of carrying this act into execution, and are not hereby altered, varied, or repealed, be used, exercised, applied and put in force, with respect to the local militia, in as full and ample a manner as if the said powers, provisions, rules, regulations, clauses, matters, and things, were re-enacted and repeated in this act.\*

Men to be  
ballotted out  
of the militia  
lists.

Sect. 23. The men to be raised under this act, shall be ballotted out of and from the persons between the ages of eighteen and thirty returned in the lists now existing, or which may hereafter be returned or

regular militia are extended to this act: Sect. 25, is similar to Sect. 27, of the English act, both relate to Friends who may be constables, &c. and Sect. 49, is nearly the same as Sect. 50, of the English act; both of them contain special provisions respecting Friends who may be balloted.

\* By virtue of this general reference Sect. 27, of the militia act, 42 Geo. III. c. 90, is in force in the execution of this act. Vid. p. 82.

amended and corrected for the raising of the militia under any acts relating to the militia of England.

Sect. 24. On making out or amending any lists after the passing of this act, of persons fit to serve in the local militia, every person who shall wilfully neglect to appeal,\* within the time appointed for that purpose, shall forfeit for every such offence any sum not exceeding five pounds, nor less than twenty shillings, at the discretion of any two or more deputy-lieutenants, or justices of the peace, or magistrates, and on non-payment thereof, be imprisoned, at the discretion of any two or more deputy-lieutenants, or justices of the peace, or magistrates, as aforesaid, for any time not exceeding fourteen days.

Penalty for neglecting to appeal.

Sect. 27. If any chief or other constable, head-borough, tithing-man or overseer, shall be of the people called Quakers, (and certified to be so by two persons of the people called Quakers) and shall neglect or refuse to perform the duties required by this act, it shall be lawful for any two justices of the peace acting for the division within which such Quaker shall be such officer as aforesaid, and they are hereby required, in all cases where the circumstances of the case shall in their judgment render it

Justices may appoint deputies to Friends for carrying the act into execution.

Ante p. 84, note.

\* This is applicable to every person who has some legal ground of objection to the return of his name.

expedient and necessary for the due execution of the provisions of this act, by their order under their hands and seals, to appoint a fit and proper person (*who, by Sect. 25, must be above thirty years of age,*) to be deputy to such Quaker, for the purpose only of carrying this act into execution; and every such person so appointed deputy as aforesaid, shall have and exercise all the powers, authorities and jurisdictions, given by this act, to such officer for whom he shall so act, and shall do and perform all the like duties and offices, under the like pains, penalties and forfeitures, as are hereby imposed for neglect of duty of any such officer as aforesaid, in like manner, in every respect, as the person for whom he shall so act; and where an appointment of any deputy shall be so made, the principal chief constable, head-borough, tithing-man or overseer, (being one of the people called Quakers) shall be, and he is hereby discharged from the performance of any duty required of him by this act, and from all penalties incurred for neglect thereof, after the time of such appointment.

Rate may be made for paying volunteers' bounties, not exceeding two guineas each.

Sect. 36. If the churchwardens or overseers of the poor of any parish, tithing, or place, shall, with the consent of the inhabitants, taken at a vestry, or at any other meeting to be holden for that purpose, for the calling of which vestry or meeting three days

public notice shall be given, specifying the cause of calling such vestry or meeting, provide and produce to the said deputy-lieutenants, or any two or more of them, at any sub-division meeting for choosing the local militia men by ballot, any volunteer or volunteers, being of the same county, riding or place, or of some adjoining parish or place, who shall be examined and approved, as is hereinafter mentioned, such volunteer or volunteers so examined and approved, shall be then and there sworn in and enrolled to serve for such term, and on the same conditions as are hereinbefore provided in case of persons chosen by ballot; and the said deputy-lieutenants shall cause only such number of persons to be chosen by ballot out of the list returned for such parish, tithing, or place, as shall be then wanted to make up the whole number to serve for such parish, tithing, or place; and if any such churchwardens or overseers shall give to such volunteer or volunteers, any sum or sums of money, not exceeding two guineas each, to serve in the local militia, for such parish, tithing, or place, it shall be lawful for such churchwardens or overseers to make a rate\*

\* This must be distinct from the poor's rate; as clearly appears not only from the terms, "*A Rate—according to the rate then made for the relief of the poor:*" but also from the consideration that persons serving in the local militia, &c., though assessed to the poor's rate, are not liable to the payment of this.



upon the inhabitants of such parish, tithing, or place, according to the rate then made for the relief of the poor, which rate (being approved by any justice of the peace) it shall be lawful for such churchwardens or overseers to collect, and to reimburse themselves such sum or sums of money as they shall have paid to such volunteer or volunteers as aforesaid, and the overplus (if any) shall be applied as part of the poor's rate: and if any person shall refuse to pay such rate, it shall be lawful for any justice of the peace, upon complaint thereof made by any such churchwarden or overseer, by warrant under his hand and seal, to levy the same by distress and sale of the offender's goods and chattels, returning the overplus, (if any) after the said rate, and the charges of such distress and sale shall be paid; but no person who shall be then serving in the local militia, nor any person serving either personally or by substitute in the regular militia, shall be liable to pay any such rate: Provided always, that if any person shall think himself aggrieved by any such rate as aforesaid, such person may appeal to the next general or quarter sessions, in like manner as is provided in the case of appeals against rates for the relief of the poor.

Refusal to  
pay rate.

Vid. Sect. 53.  
post.

Certain persons exempt  
from service.

Sect. 38. No constable or peace officer, not being



a special constable, nor any seaman or seafaring man, nor any person being free of the Company of the Watermen of the River Thames, nor any poor man who has more than two children, born in wedlock, nor any person receiving his education on an eleemosynary foundation, shall be liable to serve in the local militia ; and no person having served personally in the regular militia, or additional force, (*viz. the army of reserve*) or provided any substitute, or for whom any substitute has been provided, or paid any fine for not serving or finding a substitute in the regular militia, or such additional force as aforesaid, shall be liable to serve in the local militia until four years after the expiration of his period of service, if he shall have served in person, or six years after the period at which such substitute shall have been enrolled, or four years after having paid any such fine ; and no person having paid any fine, or upon whom distress has been made for any fine for not serving in the local militia, shall be liable to serve until the expiration of two years, from the period of having paid such fine, or suffered such distress.

Sect. 44. If any person ballotted to serve in the local militia under this act, shall after notice given to him, or left at his usual or last place of abode, of his having been so ballotted, refuse or neglect to

Persons ballotted, not appearing to be enrolled, shall be fined.

appear within such period, and at such place as shall be appointed for that purpose, within the sub-division for which he shall have been so balloted (which times and places shall be appointed by the deputy-lieutenants in their respective sub-divisions, under any order of the lieutenant of the county, and notice thereof given by the constables of the several parishes, by putting up the same on churches, chapels, or other conspicuous places) and be enrolled under this act, and take the oath to serve under this act, such person shall forfeit the sum of thirty pounds; or if a person not having or receiving any annual sum of money, profits, gains, allowances, or other income whatsoever, amounting in the whole to two hundred pounds, clear of all out-goings, taxes, or reprises, the sum of twenty pounds; and if not amounting in the whole to one hundred pounds, clear of all out-goings, taxes, or reprises, the sum of ten pounds; and every such fine shall be paid to the clerk of the sub-division meetings, who shall on receipt thereof give a certificate, without fee or reward, of the same being paid, which certificate shall be countersigned by some justice of the peace or deputy-lieutenant: and shall within twenty one days after the receipt thereof, pay the same into the Bank of England to a separate account of the agent general for the local militia, for the purposes of the local militia of Great

Britain, being furnished with a receipt for the same, and the payment of such fine shall exempt such person from being ballotted and enrolled under this act for two years and no longer : and such person shall be liable to be ballotted and enrolled in the year next but one after that in which he shall have been so ballotted as aforesaid, and in like manner to serve or pay such fine as aforesaid, and so in each second succeeding year.

Fines to exempt for two years only.

Sect. 46. Every person claiming to be exempted from service under this act, upon payment of the fine of twenty pounds, or ten pounds, instead of thirty pounds, shall sign a declaration that the amount of his income does not exceed two hundred pounds, or one hundred pounds, as aforesaid, as the case may be, and shall deliver the same to the deputy-lieutenant, before whom he shall appear to claim such exemption, or produce a certificate to the like effect, allowed by any commissioners under any act relating to the rates and duties arising on property, professions, trades, and offices, or to any allowances made on any such rates and duties, within twelve months, previous to the production of such certificate ; and every person who shall make any false declaration in relation to any such claim, shall forfeit and pay for

Persons claiming exemption on payment of smaller fines, to sign a declaration of their income.

such offence, the sum of fifty pounds, in addition to such fine.

Persons to  
sign a declara-  
tion that they  
have not  
insured.

Sect. 47. Every person claiming to be exempted from service, under this act, upon payment of fine as aforesaid, and every person who shall be liable to the payment of any fine under this act, for not appearing to be enrolled in the local militia, shall be summoned and required to appear before some deputy-lieutenant or justice of the peace, and shall be required by the deputy-lieutenant before whom he shall appear to claim such exemption, or by such deputy-lieutenant or justice of the peace before whom he shall be so summoned and required to appear, as aforesaid, to sign a declaration that he hath not, directly or indirectly, by any policy,\* premium, or promise of any policy or premium, or by any engagement, insured himself against such fine, or any part thereof, and that no person or persons hath or have, directly or indirectly, in consideration of any sum of money, or promise of any sum of money, or gift or reward, or for any valuable consideration whatever, undertaken, engaged, or promised, in any way, to indemnify him therefrom, or

\* By Sect. 34, a penalty of fifty pounds is imposed for being any ways concerned in insuring against or for any fine under the act.

from any part thereof, or to repay to him, or to any person or persons on his behalf, or for his use, benefit, or advantage, the said fine, or any part thereof; and in case any person so claiming to be exempt, or so summoned or required to appear as aforesaid, shall refuse so to sign such declaration, or so to appear according to such summons or requisition, or shall make any false declaration in that behalf, every such person shall, upon conviction thereof before two justices of the peace, forfeit three times the amount of such fine; and in default of payment thereof, shall be confined in any house of correction, or common gaol for such county, for any period not exceeding three months, or until payment of such penalty; and shall be liable personally to serve in the said local militia for the full term of four years after the expiration of such imprisonment, or the payment of such penalty.

Sect. 50. If any person being of the people called Quakers, or of the people called Unitas Fratrum, or United Brethren, who shall be ballotted under this act, shall produce before the deputy-lieutenants of any sub-division meeting, or any two deputy-lieutenants, or justices of the peace, a certificate under the hands of two or more respectable house-keepers, being of the people called Quakers,

Friends not to be enrolled, but liable to certain fines.

Ante p. 84, note.

or of the people called *Unitas Fratrum*, or United Brethren, resident within the county or place of residence of such person, and dated within three months immediately preceding the day on which such certificate shall be produced as aforesaid, acknowledging such person, to be one of their persuasion, such person shall not be enrolled; and it shall be lawful for any such deputy-lieutenants or justices to adjudge any such person to pay such proportion of such fines,\* as are by this act imposed on persons balloted and not appearing, as to such deputy-lieutenants or justices may appear to be proper, according to the situation in life and property of such person; and the amount of fine so adjudged by such deputy-lieutenants or justices may be levied by distress and sale of the goods and chattels of such persons, by warrant under their hands and seals, (the overplus, if any, after deducting of reasonable charges, being rendered to the party;) and if no goods or chattels can be found whereby the sum so imposed upon such Quaker or United Brother can be levied, and the deputy-lieutenants or

Ante p. 114.

Distress.

\* These fines are specified in Sect. 44, and it is to be understood by the words "*Such proportion of such fines*;" such proportion of the sums of £30, £20, or £10 respectively, as to the deputy-lieutenants or justices may appear to be proper, according to the situation in life and property of the person balloted. A power is thus vested in them to reduce the fine, with regard to the people called Quakers, to any sum in their discretion.



justices shall nevertheless upon enquiry be satisfied that such Quaker or United Brother *is of sufficient ability to pay such fine of ten pounds*, then it shall be lawful for any deputy-lieutenant or justice of the peace, if he shall think fit,\* to commit such Quaker or United Brother to prison, there to remain for any time not exceeding one month, unless such sum shall be sooner paid and satisfied: provided always, that no Quaker or United Brother so committed as aforesaid shall be confined among felons.

*A form of the certificate required in this clause may be seen in the note in page 84.*

Sect. 51. Every person liable to serve in the local militia, having more than one place of residence, shall serve for the county, riding, or place, where his name shall have been first inserted in such list as aforesaid; and the clerk to the subdivision meeting to which such list shall be returned, shall, if such person requires the same, grant a certificate gratis under his hand, that such person's name was inserted in such list, and specifying the time when such list was made and returned.

Persons having more than one place of residence.

\* From this it would appear that if a Friend is not of sufficient ability to pay the sum of £10, he is not liable to either fine or imprisonment, and it is obvious that a person who, though of ability to pay the sum of £10, has no distrainable effects, may be spared the penalty of imprisonment.



Justices may  
order payment  
of costs for  
levying by  
distress.

Sect. 53. Where any rate shall have been made for the providing of volunteers according to the directions of this act, and the churchwardens and overseers shall make complaint to a justice of the peace, that any Quaker or Quakers has refused to pay the sum or sums of money he or they shall be rated at, such justice shall order such costs and charges to be paid for levying such distress as he shall think reasonable, not exceeding ten shillings on each of the said Quakers, where there are no more than two, and where there are a greater number than two, not exceeding five shillings on each of the said Quakers: Provided always, that no man shall be deemed, taken and accepted to be a Quaker within the meaning of this act, unless he shall produce, before the deputy-lieutenants at some of their sub-division meetings, a certificate under the hands of two or more reputable housekeepers, being of the people called Quakers, resident within the said county, riding, or place, and dated within the three months immediately preceding the day on which it shall be produced as aforesaid, acknowledging such man to be one of their persuasion.

Vid. p. 84,  
note.

*A form is given in a note p. 84, as applicable to the certificate required by this clause.*

Sect. 55. Whenever it shall appear to any two or more deputy-lieutenants, or any one deputy-lieutenant and one justice of the peace assembled at any sub-division meeting, that any person chosen by ballot to serve in the local militia, is unable to serve from any permanent illness, debility, or bodily infirmity, or is not of the full height of five feet two inches, or is not approved upon examination, by a surgeon according to the directions of this act, such deputy-lieutenants or such deputy-lieutenant and justice of the peace shall and are hereby empowered and required to discharge such person, and immediately to amend the list for the place for which such person shall have been balloted, and to cause another person to be chosen in his stead, by ballot, according to the directions of this act.

Persons chosen by ballot unfit for service.

Sect. 101. When the local militia shall be called out to be trained and exercised, or for the suppression of riots or tumults, any justice being thereunto required (*as in the act is mentioned*) shall issue his warrant to the constables, &c. requiring them to provide carriages to convey the arms, clothes, accoutrements, ammunition, and other stores, with able men to drive such carriages; and every such constable, &c. shall order and appoint such persons having carriages, within their respective hundreds,

Mode of procedure in providing carriages.

&c. as they shall think proper, to provide and furnish such carriages and men, according to the warrant aforesaid; and every person so ordered is required to provide and furnish the same accordingly for one day's journey and no more.

Overseers to pay sums assessed for men deficient out of poor rates.

Sect. 179. The overseers of the poor of the several parishes and tithings, upon which any rate or assessment shall have been made *as in the said act aforesaid*,\* shall within fourteen days after notice from the clerks of the sub-divisions, pay the amount of the rate or assessment, made upon their respective parishes or tithings, out of any money in their or any of their hands, of the rates for the relief of the poor; and if they or any of them shall not have sufficient of such money for that purpose, then such overseers shall, and they are hereby required to make a rate sufficient to satisfy such rate and assessment, and it shall be lawful for the said overseers to levy and collect the same in such manner as rates made for the relief of the poor, or any other rates made for the purposes of this act may be levied and collected.

Sect. 190. If any person shall think himself or

\* This refers to a rate to be made by the justices of the quarter sessions upon every county, hundred, or parish for which the full number of men required under this act shall not have been balloted and enrolled before certain days in the act mentioned.

herself aggrieved by any such rate as aforesaid, such person may appeal to the next general or quarter Appeal sessions, in such manner as is provided in cases of appeal against rates for the relief of the poor.

By 53 Geo. III. c. 28, intituled “ An act to explain and amend an act passed in the last session of Parliament for amending the laws relating to the local militia in England.” Sect. 8, No return or list or ballot shall be deemed irregular, by reason of any mistake in the christian name of the person returned and ballotted, and all the penalties of 52 Geo. III. c. 38, shall be enforced against the person so returned and ballotted in like manner in every respect as if the christian name had been correctly returned ; provided, that notice of the person being ballotted shall have been given to the person so ballotted according to the provision of the said act: provided always, that every person so returned and ballotted under any wrong christian name as aforesaid, shall be entitled to claim any exemption to which he may be entitled after being so ballotted, and although the days and times for hearing appeals shall have passed.

53 Geo. III.  
c. 28.  
Lists not irregular on account of mistakes of names.

*Conveyance of Soldiers' and Sailors' Baggage, &c.*

Providing  
carriages.

By the act annually passed, intituled “An act for punishing mutiny and desertion; and for the better payment of the army and their quarters,” *provision is made enabling a justice on such application as is therein mentioned* to issue his warrant to the constables, requiring them to make such provision of carriages and horses or oxen, with able men to drive the same, as is mentioned in the said warrant: And the constables shall order and appoint such persons having carriages within their respective liberties as they shall think proper, to provide and furnish such carriages and horses and oxen and men, according to the said warrant, who are thereby required to furnish and provide the same accordingly.

Cases of  
emergency.

And also *empowering the justices in cases of emergency to be certified to them as therein is mentioned*, to issue their warrants to the constables, requiring them to provide saddle horses, coaches, chaises, and other four-wheeled carriages usually let to hire, and also boats, barges, and other vessels used upon any canal or navigable river, with able men and horses to drive, navigate, and draw the same, as shall be

mentioned in such warrants: And the constables so required, shall order and appoint such persons within their respective limits as they shall think proper, to provide and furnish such horses, carriages, boats, barges, or other vessels, and men, according to the warrants aforesaid, who are thereby required to furnish the same accordingly.

And also providing that if any person appointed <sup>Penalties.</sup> by such constable, to furnish any carriage, man, horse, boat, barge, or other vessel, shall refuse or neglect to provide the same; or if such person or any other person or persons whomsoever shall wilfully do any act or thing whereby the execution of any such warrant shall be hindered or frustrated, every such person or persons so offending, shall for every such offence forfeit any sum not exceeding five pounds, nor less than forty-shillings, to the use of the poor of such parish or parishes adjoining to the parish where such offence shall be committed, as shall be fixed upon by the justice by whom such offence shall be heard: And all and every such offence and offences shall and may be inquired of, heard, and finally determined by one justice, dwelling in or near the place where any such offence shall be committed, who has thereby power to cause the said penalty to be levied by distress and sale of

the offender's goods and chattels, rendering the overplus (if any) to the owner.

And in another act annually passed, intituled "An act for the regulation of Her Majesty's Royal Marine forces while on shore," provisions similar to the foregoing are contained.



## MARRIAGE.

IN an act of the 26 Geo. II. c. 33, intituled “ An <sup>26 Geo. II. c. 33.</sup> act for the better preventing of clandestine mar- <sup>Repealed by 4 Geo. IV. c. 76, post.</sup> riages,” it is provided, that nothing in the said act contained shall extend to that part of Great Britain called Scotland, nor to any marriages among the people called Quakers, or amongst the persons pro- <sup>Exemption.</sup> fessing the Jewish religion, where both the parties to any such marriage shall be of the people called Quakers, or persons professing the Jewish religion respectively, nor to any marriages solemnized beyond the seas.

And in the acts 3 Geo. IV. c. 75, intituled “ An <sup>3 Geo. IV. c. 75.</sup> act to amend certain provisions of 26 Geo. II. for the better preventing of Clandestine Marriages,” and 4 Geo. IV. c. 76, intituled “ An act for amend- <sup>4 Geo. IV. c. 76.</sup> ing the Laws respecting the solemnization of marriages in England,” similar provisions are contained, and by the last act the 26 Geo, II. c. 33, and 4 Geo. IV. c. 17, are repealed, and by 5 Geo. IV. <sup>5 Geo. IV. c. 68.</sup> c. 68, intituled “ An act to repeal an act passed in <sup>Marriages in Newfoundland.</sup> the fifty-seventh year of the reign of his late Majesty King George the Third, intituled ‘ *An act to regulate the celebration of Marriages in Newfoundland*; and

to make further provision for the celebration of marriages in the said Colony and its Dependencies," it is by Sect. 9 enacted, that nothing in this act contained relating to marriages in Newfoundland, shall extend to any marriages amongst the people called *Quakers*, or amongst the persons professing the *Jewish* religion, where both the parties to any such marriage shall be of the people called *Quakers*, or persons professing the *Jewish* religion respectively.

6 & 7 Will.  
IV. c. 85.

Provision for  
the marriage  
of Friends.

Proviso.

By 6 and 7 Will IV. c. 85, intituled "An act for marriages in England," it is by Sect. 2 enacted, that the Society of Friends commonly called *Quakers*, and also persons professing the *Jewish* religion, may continue to contract and solemnize marriage, according to the usages of the said society, and of the said persons respectively; and every such marriage, is thereby declared and confirmed good in law, provided that the parties to such marriage be both of the said society, or both persons professing the *Jewish* religion, respectively; provided also, that notice to the registrar shall have been given, and the registrar's certificate shall have issued in manner hereinafter provided.

Notice of  
every in-  
tended mar-  
riage to be  
given to the  
Superinten-  
dent Registrar  
of the district.

Sect. 4 enacts, that in every case of marriage intended to be solemnized in *England* after the first day of *March*, 1837, (*altered by 7 Will. IV. c. 1, to*

*the last day of June,*) according to the rites of the Church of *England*, (unless by license or by special license, or after publication of banns,) and in every case of marriage intended to be solemnized in *England* after the said first day of March, according to the usages of the Quakers or Jews, or according to any form authorized by this act, one of the parties shall give Notice under his or her hand, in the form of Schedule (A) to this act annexed, or to the like effect, to the Superintendent Registrar of the District within which the parties shall have dwelt for not less than seven days then next preceding, or if the parties dwell in the Districts of different Superintendent Registrars, shall give the like Notice to the Superintendent Registrar of each District, and shall state therein the name and surname and the profession or condition of each of the parties intending marriage, the dwelling place of each of them, and the time, not being less than seven days, during which each has dwelt therein, and the church or other building in which the marriage is to be solemnized: Provided Proviso. that if either party shall have dwelt in the place stated in the notice during more than one calendar month, it may be stated therein that he or she hath dwelt there one month and upwards.

Sect. 5 enacts, That the Superintendent Registrar Superintendent Registrar

to keep notices in a book.

shall file all such notices, and keep them with the records of his office, and shall also forthwith enter a true copy of all such notices fairly into a book, to be for that purpose furnished to him by the Registrar General, to be called "The Marriage Notice Book," the cost of providing which shall be defrayed in like manner as the cost of providing register books of births and deaths; and the marriage notice book shall be open at all reasonable times without fee to all persons desirous of inspecting the same; and for every such entry the Superintendent Registrar shall be entitled to have a fee of one shilling.

Inspection of book.

Fee.

After 7 days or 21 days, certificate of notice to be given on demand.

Sect. 7 enacts, That after the expiration of seven days, if the marriage is to be solemnized by license, or of twenty-one days, if the marriage is to be solemnized without license, after the entry of such notice, the Superintendent Registrar, upon being requested so to do by or on behalf of the party by whom the notice was given, shall issue under his hand a certificate in the form of Schedule (B) to this act annexed, provided that no lawful impediment be shown to the satisfaction of the Superintendent Registrar why such certificate should not issue, and provided that the issue of such certificate shall not have been sooner forbidden in manner hereinafter mentioned by any person or persons authorized in

that behalf as hereinafter is provided; and every such certificate shall state the particulars set forth in the notice, the day on which the notice was entered, and that the full period of seven days or of twenty-one days, (as the case may be,) has elapsed since the entry of such notice, and that the issue of such certificate has not been forbidden by any person or persons authorized in that behalf; and for every such certificate the Superintendent Registrar shall be entitled to have a fee of one shilling.

Fee.

Sect. 9 enacts, That any person authorized in that behalf may forbid the issue of the Superintendent Registrar's certificate, by writing at any time before the issue of such certificate the word "*forbidden*," opposite to the entry of the notice of such intended marriage, in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her character, in respect of either of the parties, by reason of which he or she is so authorized; and in case the issue of any such certificate shall have been so forbidden, the notice and all proceedings thereupon shall be utterly void.

Issue of Superintendent Registrar's certificate may be forbidden.

Sect. 14 enacts, That after the said first day of *March*, no marriage after such notice as aforesaid, unless by virtue of a license to be granted by the

Marriages not to be solemnized until after 21 days after entry of notice, unless by license.

Marriage by  
license.

Superintendent Registrar, shall be solemnized or registered in *England* until after the expiration of twenty-one days after the day of the entry of such notice as aforesaid; and no marriage shall be solemnized by the license of any Superintendent Registrar or registered until after the expiration of seven days after the day of the entry of such notice as aforesaid.

New notice  
required after  
three months.

Sect. 15 enacts, That whenever a marriage shall not be had within three calendar months after the notice shall have been so entered by the Superintendent Registrar, the notice and certificate, and any license which may have been granted thereupon, and all other proceedings thereupon, shall be utterly void; and no person shall proceed to solemnize the marriage, nor shall any Registrar register the same, until new notice shall have been given, and entry made, and certificate thereof given, at the time and in the manner aforesaid.

Superintendent registrar's  
certificate or  
license to be  
delivered to  
the person by  
or before  
whom the  
marriage is  
solemnized.

Sect. 16 enacts, That the Superintendent's certificate, or in case the parties shall have given notice to the Superintendent of different districts, the certificate of each Superintendent, shall be delivered to the Officiating Minister, if the marriage shall be solemnized according to the rites of the Church of *England*; and the said certificate or license shall be



delivered to the Registering Officer of the people called *Quakers* for the place where the marriage is solemnized, if the same shall be solemnized according to the usages of the said people; or to the Officer of a Synagogue by whom the marriage is registered, if the same shall be solemnized according to the usages of persons professing the Jewish Religion; and in all other cases shall be delivered to the Registrar present at the marriage, as hereinafter provided.

Sect. 39 enacts, That every person who after the said first day of *March*, shall knowingly and wilfully solemnize any marriage in *England*, except by special license, in any other place than a church or chapel in which marriages may be solemnized according to the rites of the church of *England*, or than the registered building or office specified in the notice and certificate as aforesaid, shall be guilty of felony (except in the case of a marriage between two of the Society of Friends commonly called *Quakers*, according to the usages of the said society, or between two persons professing the Jewish religion, according to the usages of the Jews;) and every person who in any such registered building or office shall knowingly and wilfully solemnize any marriage in the absence of a Registrar of the District in which such registered building or office

Persons unduly solemnizing marriage, guilty of felony.



is situated shall be guilty of felony; and every person who shall knowingly and wilfully solemnize any marriage in *England* after the said first day of *March* (except by license) within twenty-one days after the entry of the notice to the Superintendent Registrar as aforesaid, or if the marriage is by license, within seven days after such entry, or after three calendar months after such entry, shall be guilty of Felony.

Schedule (A.)

Notice of Marriage.

To the Registrar of the District of *Hendon*, in the County of *Middlesex*.

I hereby give you notice, That a marriage is intended to be had within three calendar months from the date hereof, between me and the other party herein named and described; (that is to say,)

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church or Building in which marriage is to be solemnized.	District and County in which the other party resides, when the parties dwell in different districts.
<i>James Smith.</i>	<i>Widower.</i>	<i>Carpenter.</i>	<i>of full age.</i>	<i>16, High Street.</i>	<i>23 days.</i>	<i>Sion Chapel, West Street, Hendon, Middlesex.</i>	<i>Tonbridge, Kent.</i>
<i>Martha Green.</i>	<i>Spinster.</i>	<i>... ..</i>	<i>Minor.</i>	<i>Grove Farm.</i>	<i>more than a month.</i>		

Witness my hand this *sixth* day of *May*, 1837,

(Signed) *James Smith.*

[The italics in this schedule to be filled up as the case may be.

By 3 and 4 Vict. c. 72, intituled “ An act to pro-<sup>3 & 4 Vict.</sup>  
vide for the solemnization of marriages in the districts  
in or near which the parties reside,” After reciting the  
acts of 4 Geo. IV. c. 76, 6 and 7 Will. IV. c. 85,  
and 7 Will. IV., and 1 Vict. c. 22, and that it was ex-  
pedient to restrain marriages under the said act of his  
then late Majesty (*i. e.* 6 and 7 Will. IV. c. 85) from  
being solemnized out of the district in which one of  
the parties dwells, unless either of the said parties  
dwells in a district within which there is not any re-  
gistered building, wherein marriages is solemnized  
according to the ceremony the parties see fit to adopt,  
it is by Sect. 5 enacted, that notwithstanding anything  
in this act or in the said recited acts or either of them  
contained, the Society of Friends, commonly called  
Quakers, and also persons professing the Jewish  
religion, may lawfully continue to contract and  
solemnize marriage according to the usages of the  
said society, and of the said persons respectively,  
after notice for that purpose duly given, and certi-  
ficate or certificates duly issued, pursuant to the pro-  
vision of the said recited act of his late Majesty,  
notwithstanding the building or place wherein such  
marriage may be contracted or solemnized be not  
situate within the district or either of the districts  
(as the case may be,) in which the parties shall  
respectively dwell.

Provision as  
to marriages  
of members of  
the Society of  
Friends and  
Jews in build-  
ings not within  
the districts  
in which they  
dwell.

10 & 11 Vict.  
c. 58.  
Marriages of  
Friends and  
Jews solemn-  
ized before  
certain dates  
declared  
valid.

By 10 and 11 Vict. c. 58, intituled "An act to remove doubts as to Quakers and Jews marriages solemnized before certain periods," after reciting that doubts had been entertained as to the validity of marriages amongst the people called Quakers, and amongst persons professing the Jewish religion, solemnized in *England* before the first day of July, 1837, or in Ireland before the first day of April, 1845, according to the usages of those denominations respectively, and that it was expedient to put an end to such doubts, it is declared and enacted, that all marriages so solemnized as aforesaid were and are good in law to all intents and purposes whatsoever, provided that the parties to such marriages were both Quakers, or both persons professing the Jewish religion respectively.

## REGISTERS.

By 6 and 7 Will. IV. c. 86, intituled “An act for 6 & 7 Will. IV. c. 86. registering births, deaths, and marriages in *England*,”

it is by Sect. 20 enacted, that the father or mother Parent or occupier of house re- of every child born in *England* after the first day of quired to give *March*, 1837, (particulars of *altered by 7 Will. IV. c. 1, to the* birth so far *last day of June*,) or in case of the death, illness, as known. absence, or inability of the father and mother, the occupier of the house or tenement in which such child shall have been born, shall, within forty-two days next after the day of every such birth, give information, upon being requested so to do, to the Registrar of the District, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

Sect. 21 enacts, That if any child of an *English* Registry of children born parent shall be born at sea on board of a *British* at sea. vessel, the captain or commanding officer of the vessel on board of which the said child shall have been born, shall forthwith make a minute of the several particulars hereinbefore required to be inserted in the register touching the birth of such child, so far as the same may be known, and the

name of the vessel wherein the birth took place, and shall, on the arrival of such vessel in any port of the United Kingdom, or by any other sooner opportunity, send a certificate of the said minute through the post office to the Registrar General, who shall file the same, and enter a copy thereof under his hand in a book to be kept for that purpose in "the General Register Office," to be called the "Marine Register Book," and shall keep the said book with the other registers, according to the provisions of this Act.

As to registry  
after expira-  
tion of 42 days  
from birth of  
child.

Sect. 22 enacts, That after the expiration of forty-two days following the day of the birth of any child, it shall not be lawful for any Registrar to register such birth, save as hereinafter is next mentioned; provided that, in case the birth of any child shall not have been registered according to the provisions hereinbefore contained, it shall be lawful for any person present at the birth of such child, or for the father or guardian thereof, at any time within six calendar months next after the birth, to make a solemn declaration of the particulars required to be known touching the birth of such child, according to the best of his or her knowledge and belief, and it shall thereupon be lawful for the said Registrar then and there, in the presence of the Superintendent Registrar to register the birth of the said child according

to the information of the person making the said declaration; and in every such case the Superintendent Registrar before whom the said declaration is made shall sign the entry of the birth as well as the Registrar, and for every such registry as last <sup>Fees.</sup> aforesaid the Superintendent Registrar shall be entitled to have a fee of two shillings and sixpence from the person requiring the same to be registered; and the Registrar, over and above the fee hereinafter enacted in respect of every birth registered by him, shall be entitled, unless the delay shall have been occasioned by his default, to have a fee of five-shillings from the person requiring the same to be registered; and no Register of births shall be given in evidence to prove the birth of any child wherein it shall appear that forty-two days have intervened between the day of the birth and the day of the registration of the birth of such child, unless the entry shall be signed by the Superintendent <sup>Penalty.</sup> Registrar; and every person who shall knowingly register or cause to be registered the birth of any child, otherwise than hereinbefore is last mentioned, after the expiration of forty-two days following the day of the birth of such child, shall forfeit and pay for every such offence a sum not exceeding £50.

Sect. 23 enacts, That after the expiration of six <sup>Births not to be registered</sup>

after six  
months.

calendar months following the birth of any child, it shall not be lawful for any Registrar to register the birth of such child, and no register of births, except in the case of children born at sea, shall be given in evidence to prove the birth of any child, wherein it shall appear that six calendar months have intervened between the day of the birth and the day of the registration of the birth of such child; and every person who shall knowingly register or cause to be registered the birth of any child after the expiration of six calendar months following the day of the birth of such child, shall forfeit and pay for every such offence a sum not exceeding £50.

Penalty.

Some person  
present at  
death, in at-  
tendance, or  
occupier of  
house, to give  
particulars of  
death, so far  
as known.

Sect. 25 enacts, That some person present at the death, or in attendance during the last illness of every person dying in *England* after the said first day of *March*, (*altered by 7 Will. IV. c. 1, to the last day of June,*) or in case of the death, illness, inability, or default, of all such persons, the occupier of the house or tenement, or if the occupier be the person who shall have died, some inmate of the house or tenement in which such death shall have happened, shall, within eight days next after the day of such death, give information, upon being requested so to do, to the said Registrar, according to the best of his or her knowledge and belief, of the several



particulars by this act required to be known and registered touching the death of such person: Pro- Registrar to make entry of finding of jury upon inquests.  
 vided always, that in every case in which an inquest shall be held on any dead body the Jury shall inquire of the particulars herein required to be registered concerning the death, and the Coroner shall inform the Registrar of the finding of the Jury, and the Registrar shall make the entry accordingly.

Sect. 26 enacts, That if any of his Majesty's Registry of persons dying at sea.  
*English* subjects shall die at sea on board of a *British* vessel, the captain or commanding officer of the vessel on board of which such death shall have happened shall forthwith make a minute of the several particulars hereinbefore required to be inserted in the register touching such death, so far as the same may be known, and the name of the vessel wherein the death took place, and shall on the arrival of such vessel in any port of the United Kingdom, or by any other sooner opportunity, send a certificate of the said minute through the post office to the Registrar General, who shall file the same, and enter a copy thereof under his hand in the Marine Register Book, and keep the same with the other registers, according to the provisions of this act.

Registrar to give certificate of registry of deaths to undertaker, &c.

Sect. 27 enacts, That every Registrar, immediately upon registering any death, or as soon thereafter as he shall be required so to do, shall, without fee or reward, deliver to the undertaker or other person having charge of the funeral a certificate under his hand, according to the form of Schedule (E) to this act annexed, that such death has been duly registered, and such certificate shall be delivered by such undertaker or other person to the minister or officiating person who shall be required to bury or to perform any religious service for the burial of the dead body, and if any dead body shall be buried for which no such certificate shall have been so delivered, the person who shall bury or perform any funeral or any religious service for the burial shall forthwith give notice thereof to the Registrar :

Coroner may order body to be buried, and give certificate.

Provided always, that the Coroner, upon holding any inquest, may order the body to be buried, if he shall think fit, before registry of the death, and shall in such case give a certificate of his order in writing under his hand, according to the form of Schedule (F) to this act annexed, to such undertaker or other person having charge of the funeral, which shall be delivered as aforesaid; and every person who shall bury or perform any funeral or any religious service for the burial of any dead body for which no certificate shall have been duly made and

Penalty on burying dead body without certificate of registry.

delivered as aforesaid, either by the Registrar or Coroner, and who shall not within seven days give notice thereof to the Registrar, shall forfeit and pay any sum not exceeding £10 for every such offence.

Sect. 28 enacts, That every person by whom the information contained in any register of birth or death under this act shall have been given shall sign his name, description, and place of abode in the register ; and no register of birth or death according to this act shall be given in evidence which shall not be signed by some person professing to be the informant, and to be such party as is by this act required to give such information to the Registrar.

Register to be signed by the informant.

Sect. 30 enacts, That the Registrar General shall furnish or cause to be furnished to the rector, vicar, or curate of every church and chapel in *England* wherein marriages may lawfully be solemnized, and also to every person whom the Recording Clerk of the Society of Friends commonly called *Quakers*, at their central office in *London*, shall from time to time certify in writing under his hand to the Registrar General to be a Registering Officer in *England* of the said Society, and also to every person whom the President for the time being of the *London* committee of deputies of the *British Jews* shall from time to time

Marriage register books to be furnished

to every registering officer of marriages of Friends, &c.

certify in writing under his hand to the Registrar General to be the Secretary of a Synagogue in *England*, of persons professing the Jewish religion, a sufficient number in duplicate of Marriage Register Books, and forms for certified copies thereof, as hereinafter provided; and the cost of all such books and forms shall be paid by the churchwardens and overseers of the parish or chapelry out of the monies in their hands as such churchwardens and overseers, or by the registering officer or secretary respectively to whom the same shall be furnished.

Marriage registers to be kept in duplicate.

Sect. 31 enacts, That every clergyman of the church of *England*, immediately after every office of matrimony solemnized by him, shall register in duplicate in two of the Marriage Register Books the several particulars relating to that marriage according to the form of the said Schedule (C); and every such Registering Officer of the Quakers, as soon as conveniently may be after the solemnization of any marriage between two Quakers in the district for which he is Registering Officer, and every such Secretary of a Synagogue, immediately after every marriage solemnized between any two persons professing the Jewish religion, of whom the husband shall belong to the Synagogue whereof he is Secretary, shall register or cause to be registered in duplicate in two

of the said Marriage Register Books the several particulars relating to that marriage according to the form of the said Schedule (C); and every such Registering Officer or Secretary, whether he shall or shall not be present at such marriage, shall satisfy himself that the proceedings in relation thereto have been conformable to the usages of the said society, or of the persons professing the Jewish religion, as the case may be; and every such entry as hereinbefore is mentioned (whether made by such clergyman or by such Registering Officer or Secretary respectively as aforesaid,) shall be signed by the clergyman or by the said Registering Officer or Secretary, as the case may be, and by the parties married, and by two witnesses, and shall be made in order from the beginning to the end of each Book, and the number of the place of entry in each Duplicate Marriage Register Book shall be the same.

Sect. 33 enacts, That the rector, vicar, or curate of every such church and chapel, and every such Registering Officer and Secretary, shall, in the months of *April, July, October, and January* respectively, make and deliver to the Superintendent Registrar of the District in which such church or chapel may be situated, or which may be assigned by the Registrar General to such Registering Officer or Secretary, on

Duplicates  
and certified  
copies of re-  
gisters of  
marriages to  
be sent to Su-  
perintendent  
Registrar.

durable materials, a true copy, certified by him under his hand of all the entries of marriages in the Register Book kept by him since the last certificate, the first of such certificates to be given in the month of *July*, 7Wm.IV. c. 1. 1837, (*altered by 7 Will. IV. c. 1, to the month of October,*) and to contain all the entries made up to that time, and if there shall have been no marriage entered therein since the last certificate, shall certify the fact under his hand, and shall keep the said Marriage Register Books safely until the same shall be filled; and one copy of every such Register Book, when filled, shall be delivered to the Superintendent Registrar of the District in which such church or chapel may be situated, or which shall have been assigned as aforesaid to such Registering Officer or Secretary, and the other copy of every such Register Book kept by any such rector, vicar, or curate, shall remain in the keeping of such rector, vicar, or curate, and shall be kept by him with the Registers of Baptisms and Burials of the parish or chapelry within which the marriages registered therein shall have been solemnized; and the other copy of every such Register Book of marriages among the people called *Quakers*, and among persons professing the Jewish religion respectively, shall remain under the care of the said people or persons respectively, to be kept with their other Registers and Records, and shall, for

Custody of registers when filled.



the purposes of this act, be still deemed to be in the keeping of the Registering Officer or Secretary for the time being respectively.

Sect. 35 enacts, That every rector, vicar, or curate, and every Registrar, Registering Officer and Secretary, who shall have the keeping for the time being of any register book of births, deaths, or marriages, shall at all reasonable times allow searches to be made of any register book in his keeping, and shall give a copy certified under his hand of any entry or entries in the same, on payment of the fee hereinafter mentioned; (that is to say,) for every search extending over a period not more than one year, the sum of one shilling, and sixpence additional for every additional year, and the sum of two shillings and sixpence for every single certificate.

Searches may be made, and certificates given by the persons keeping the registers.

Fee.

Sect. 36 enacts, That every Superintendent Registrar shall cause Indexes of the register books in his office to be made, and kept with the other Records of his office; and that every person shall be entitled at all reasonable hours to search the said Indexes, and to have a certified copy of any entry or entries in the said register books under the hand of the Superintendent Registrar, on payment of the fees hereinafter mentioned (that is to say,) for every

Indexes to be made at the Superintendent Registrar's office, and persons allowed to search them.

Fees.



general search the sum of five shillings, and for every particular search the sum of one shilling, and for every such certified copy the sum of two shillings and sixpence.

Indexes to be kept at general register office, searches allowed, and certified copies given.

Sect. 37 enacts, That the Registrar General shall cause Indexes of all the said certified copies of the registers to be made and kept in the general register office; and that every person shall be entitled, on payment of the fees hereinafter mentioned, to search the said Indexes between the hours of ten in the morning and four in the afternoon of every day, except *Sundays, Christmas-day, and Good Friday*, and to have a certified copy of any entry in the said certified copies of the registers; and for every general search of the said Indexes shall be paid the sum of twenty shillings, and for every particular search the sum of one shilling, and for every such certified copy the sum of two shillings and sixpence, and no more shall be paid to the Registrar General or such other officer as shall be appointed for that purpose on his account.

Fees.

Penalty for wilfully giving false information.

Sect. 41 enacts, That every person who shall wilfully make or cause to be made, for the purpose of being inserted in any register of birth, death, or marriage, any false statement touching any of the

particulars herein required to be known and registered, shall be subject to the same pains and penalties as if he were guilty of perjury.

Sect. 42 enacts, That every person who shall refuse or without reasonable cause omit to register any marriage solemnized by him, or which he ought to register, and every Registrar who shall refuse or without reasonable cause omit to register any birth or death, of which he shall have had due notice as aforesaid, and every person having the custody of any register book, or certified copy thereof or of any part thereof, who shall carelessly lose or injure the same, or carelessly allow the same to be injured whilst in his keeping, shall forfeit a sum not exceeding £50 for every such offence.

Penalty for not duly registering births, deaths, and marriages, or for losing or injuring the registers.

Sect. 43 enacts, That every person who shall wilfully destroy or injure, or cause to be destroyed or injured any such register book, or any part or certified copy of any part thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of any such register book or certified copy thereof, or shall wilfully insert or cause to be inserted in any register book or certified copy thereof any false entry of any birth, death, or marriage, or shall wilfully give any false certificate, or

Penalty for destroying or falsifying register books.

shall certify any writing to be a copy or extract of any register book, knowing the same register to be false in any part thereof, or shall forge or counterfeit the seal of the register office, shall be guilty of felony.

Accidental errors may be corrected.

Sect. 44 enacts, That no person charged with the duty of registering any birth, death, or marriage, who shall discover any error to have been committed in the form or substance of any such entry, shall be therefore liable to any of the penalties aforesaid, if within one calendar month next after the discovery of such error, in the presence of the parents of the child whose birth may have been so registered, or of the parties married, or of two persons attending upon any person in his or her last illness whose death may have been so registered, or in case of the death or absence of the respective parties aforesaid, then in the presence of the Superintendent Registrar and of two other credible witnesses who shall respectively attest the same, he shall correct the erroneous entry according to the truth of the case, by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made: Provided also, that in the case of a mar-

Proviso.

riage register he shall make the like marginal entry, attested in like manner in the duplicate Marriage Register Book to be made by him as aforesaid, and in every case shall make the like alteration in the certified copy of the register book to be made by him as aforesaid, or in case such certified copy shall have been already made, provided he shall make and deliver in like manner a separate certified copy of the original erroneous entry, and of the marginal correction therein made.

By 7 Will. IV. and 1 Vict. c. 22, intituled “ An 7 Will. IV. & 1 Vict. c. 22. act to explain and amend two acts passed in the last session of Parliament, for marriages, and for registering Births, Deaths, and Marriages, in *England*,” it is by Sect. 28 enacted, That every person Penalty for neglecting to send certified copies of register book. who under the provisions of the said acts or either of them, as amended by this act, is required to make and deliver to any Superintendent Registrar a certified copy of the entries of any births, deaths, or marriages registered by him, or the certificate required by the said acts as amended by this act, that there have been no entries since the last certificate, and who after being duly required to deliver such certified copy, or such certificate as aforesaid, shall refuse or during one calendar month neglect so to do, shall be liable for every such

offence to forfeit a sum not exceeding ten pounds to be recovered as other penalties for offences against the said acts are made recoverable.

10 Geo. IV.  
c. 24.

Certificates of  
burials of  
Friends, &c.

Proviso.

By 10 Geo. IV. c. 24, intituled “ An act to enable the commissioners for the reduction of the National Debt to grant life annuities and annuities for terms of years,” After providing for the evidence which should be adduced in support of claim for a quarter’s Annuity on the death of any nominee or nominees, it is by Section 28 enacted, That it shall be lawful for the proper officer of the said commissioners for the reduction of the National Debt, and he is hereby authorized, empowered and required, to receive any extracts or copies from the registers of the Society of Friends commonly called *Quakers*, or from the registers of any Dissenting or Roman Catholic Chapel, or other chapel not being parochial, as evidence of the death or burial of any nominee or nominees; provided that such extracts or copies shall be duly certified under the hand of the Registrar or person keeping such registers; and that such copy so certified, shall be accompanied by an affidavit as to the identity of such nominee or nominees, to be made and taken by and before such and the like person and persons as is required by this act on the death of any nominee.

## NONPAROCHIAL REGISTERS.

By 3 and 4 Vict. c. 92, intituled “An act for enabl-<sup>3 & 4 Vict.</sup>  
ing Courts of Justice to admit Non-Parochial Re-<sup>c. 92.</sup>  
gisters as evidence of Births or Baptisms, Deaths or  
Burials, and Marriages,” after reciting the appoint-  
ment of certain Commissioners for inquiring into the  
state, custody, and authenticity of any registers or  
records of births or baptisms, deaths or burials, and  
marriages lawfully solemnized, as had been kept in  
England and Wales other than the parochial regis-  
ters, and the copies thereof deposited with the  
Diocesan Registrars, and for inquiring whether any  
and what measures could be beneficially adopted for  
collecting and arranging and depositing such regis-  
ters or records, and for considering and advising the  
proper measures to be adopted for giving full force  
and effect as evidence in all courts of justice to all  
such registers as were found accurate and faithful,  
and for facilitating the production and reception of  
the same: And that there were then about seven  
thousand registers in the custody of the said Com-  
missioners which by their report to her Majesty they  
had recommended to be kept together in some secure  
place of deposit, and to be deemed to be in legal  
custody, and to be receivable in evidence in all  
courts of justice, subject to certain conditions and



restrictions therein recommended, it was by Sect. 1 enacted, That the Registrar General of births, deaths, and marriages in *England* should receive, and deposit in the general register office, all the registers and records of births, baptisms, deaths, burials, and marriages then in the custody of the Commissioners appointed as aforesaid, and which they had by their said report recommended to be kept in some secure place of deposit, and also the several other registers and records therein referred to.

Certain Registers to be deposited in the custody of the Registrar General.

Sect. 3 enacts, That every office or place where any registers or records which by this or any other act are directed to be in the custody of the Registrar General shall be deposited by direction of the Registrar General, with the approval of the Lord High Treasurer, or three or more Commissioners of Her Majesty's Treasury, shall be deemed to be a branch or part of the general register office, so long as such registers or records shall remain therein, and the execution of this act shall be deemed to be a part of the business of the general register office.

Declaratory provisions as to the general register office.

Sect. 4 enacts, That the said commissioners shall from time to time deliver to the Registrar General a descriptive list or lists of all the registers and records now in their custody, and also of all the registers

Commissioners to identify the registers deposited.



and records which shall be certified as fit to be placed with the other registers and records in the general register office, containing such particulars, and referring to the registers and records in such manner, as in the opinion of the Registrar General shall be sufficient to identify every such register and record; and three or more of the said Commissioners, (of whom the Registrar General shall not be one,) shall certify under their hands, upon some part of every separate book or volume containing any such register or record, that it is one of the registers or records deposited in the general register office pursuant to this act, and in every case in which the Commissioners shall certify to the Registrar General as aforesaid that certain parts only of such registers or records appear to them to be original or authentic, the Commissioners shall refer in the descriptive list or lists, and also in the certificate upon such book or volume, to those parts, in such manner as to identify them to the satisfaction of the Registrar General.

Sect. 5 enacts, That the Registrar General shall cause lists to be made of all the registers and records which may be placed in his custody by virtue of this act; and every person shall be entitled, on payment of the fees hereinafter mentioned, to search

Lists to be made

which shall be open to search;

the said lists, and any register or record therein mentioned, between the hours of ten in the morning and four in the afternoon of every day, except *Sundays* and *Christmas Day* and *Good Friday*, but subject to such regulations as may be made from time to time by the Registrar General, with the approbation of one of Her Majesty's Principal Secretaries of State, and to have a certified extract of any entry in the said registers or records, and for every search in any such register or record shall be paid the sum of one shilling; and for every such certified extract the sum of two shillings and sixpence, and no more:

and certified extracts had therefrom.

Fee.

Registers deemed in legal custody, and shall be receivable in evidence.

Production of registers.

Sect. 6 enacts, That all registers and records deposited in the general register office by virtue of this act, except the registers and records of baptisms and marriages at the *Fleet* and *King's Bench* prisons, at *May Fair*, at the *Mint* in *Southwark*, and elsewhere, which were deposited in the registry of the Bishop of *London* in the year 1821, as hereinafter mentioned, shall be deemed to be in legal custody, and shall be receivable in evidence in all courts of justice, subject to the provisions hereinafter contained; and the Registrar General shall produce or cause to be produced any such register or record, on subpœna or order of any competent court or tribunal, and on payment of a reasonable sum, to be taxed as

the court shall direct, and to be paid to the Registrar General, on account of the loss of time of the officer by whom such register or record shall be produced, and to enable the Registrar General to defray the travelling and other expenses of such officer.

By the subsequent Sections of the act, provision is made as to the authentication of extracts from these registers, and for regulating the practice in reference to the production of the originals or the extracts, according to circumstances, in legal and other proceedings.

It may be proper to state that, under this act, the whole of the registers of births, marriages and burials in the Society of Friends in England and Wales, from the rise of the Society to the period of the establishment of the Civil Registry in 1837, were (with the exception of a very few register books which were not discovered in time) surrendered to the government by the respective Meetings to which they belonged, and are now in the custody of the Registrar General.

## CHARITIES.

52 Geo. III. c. 102. By 52 Geo. III. c. 102, intituled “ An act for the

Exemption. registering and securing of charitable donations,” it is, by Sect. 12, provided, that nothing in the said act contained, shall extend to any charitable foundation or donation which shall have been, or shall be given to and for the benefit of any person or persons of the society of people called Quakers, and which shall be under the superintendence and control of persons of that persuasion.

58 Geo. III. c. 91. By an act of the 58 Geo. III. c. 91, intituled

Exemption. “ An act for appointing Commissioners to inquire concerning charities in England for the education of the poor,” it is provided, (Sect. 12) that the act shall not extend to any funds applicable to the purposes of education, for the benefit of any persons of the Jewish persuasion, or the people called Quakers, or person or persons of the Roman Catholic persuasion, and which shall be under the superintendence and control of persons of such persuasions respectively.\*

\* It may be proper to observe that the exemption in this and the subsequent acts, was unsought for by the Society.

By an act 59 Geo. III. c. 81, intituled "An act <sup>59 Geo. III. c. 81.</sup> to amend an act of the last session of Parliament, for appointing Commissioners to enquire concerning charities in England for the education of the poor, and to extend the powers thereof to other charities in England and Wales; to continue in force until the first day of August, 1823, and from thence until the end of the then next session of Parliament," Sect. 7 provides, that the act, or any of the provi- <sup>Exception.</sup> sions therein contained, shall not extend, or be construed to extend, to any funds applicable to the benefit of any persons of the Jewish persuasion, or of the people called Quakers, or of persons of the Roman Catholic persuasion, and which shall be under the superintendence and control of persons of such persuasions respectively.

The powers of the Commissioners under these <sup>5 Geo. IV. c. 58; 10 Geo. IV. c. 57; 1 and 2 Will. IV. c. 34; 5 and 6 Will. IV. c. 71.</sup> acts were from time to time continued by 5 Geo. IV. c. 58, 10 Geo. IV. c. 57, 1 and 2 Will. IV. c. 34, and 5 and 6 Will. IV. c. 71, which contained similar exceptions to those already set out, and the last-mentioned act contained in addition the following exception, Sect. 17, That this act or any of the provisions therein contained shall not extend or be construed to extend to any institution established, or society for charitable purposes, wholly or principally <sup>Act not to extend to charities chiefly supported by voluntary contributions.</sup>

maintained by voluntary contributions, and under the superintendence and control of any committee or governors or other person or persons chosen or appointed out of or by voluntary subscribers thereto ; and that the application of any donation or bequest to the general purposes of any such institution, establishment, or society, in aid of such voluntary contributions, shall not be subject to the examination or interference of the commissioners appointed under this act: Provided always that the management and application of the rents and profits of any lands, tenements, or hereditaments belonging to such institution, establishment, or society for the period of twenty years or upwards before the passing of this act, shall in all such cases be subject to the examination of the said Commissioners at their discretion.

except as to  
management,  
&c. of rents  
for 20 years.

By 9 Geo. II.  
c. 36.

By 9 Geo. II. c. 36, intituled “ An act to restrain the disposition of lands, whereby the same become unalienable,” after reciting that gifts or alienations of lands, tenements or hereditaments, in mortmain, were prohibited or restrained by Magna Charta, and divers other wholesome laws, as prejudicial to and against the common utility ; and that nevertheless this public mischief had of late greatly increased by many large and improvident alienations or dispositions made by languishing or dying persons, or by



other persons, to uses called charitable uses, to take place after their deaths, to the disherison of their lawful heirs; it was enacted, that from and after the twenty-fourth day of *June*, 1736, no manors, lands, tenements, rents, advowsons or other hereditaments, corporeal or incorporeal whatsoever, nor any sum or sums of money, goods, chattels, stocks in the public funds, securities for money, or any other personal estate whatsoever, to be laid out or disposed of in the purchase of any lands, tenements or hereditaments, shall be given, granted, aliened, limited, released, transferred, assigned or appointed, or any ways conveyed or settled to or upon any person or persons, bodies politic or corporate or otherwise, for any estate or interest whatsoever, or any ways charged or incumbered by any person or persons whatsoever, in trust, or for the benefit of any charitable uses whatsoever; unless such gift, conveyance, appointment or settlement of any such lands, tenements or hereditaments, sum or sums of money, or personal estate (other than stocks in the public funds) be and be made by deed indented, sealed and delivered in the presence of two or more credible witnesses twelve calendar months at least before the death of such donor or grantor (including the days of the execution and death) and be inrolled in His Majesty's High Court of Chancery, within six

After 24th June, 1736, no Manors, &c. nor money to be laid out in lands, &c. to be given for charitable uses, unless by deed executed with certain formalities.



calendar months next after the execution thereof; and unless such stocks be transferred in the public books usually kept for the transfer of stocks, six calendar months at least before the death of such donor or grantor (including the days of the transfer and death) and unless the same be made to take effect in possession for the charitable use intended, immediately from the making thereof, and be without any power of revocation, reservation, trust, condition, limitation, clause or agreement whatsoever, for the benefit of the donor or grantor, or of any person or persons claiming under him.

Purchases or transfers for valuable considerations not affected by death of grantor.

Sect. 2 enacts, That nothing hereinbefore mentioned relating to the sealing and delivering of any deed or deeds twelve calendar months at least before the death of the grantor, or to the transfer of any stock six calendar months before the death of the grantor or person making such transfer, shall extend, or be construed to extend, to any purchase of any estate or interest in lands, tenements or hereditaments, or any transfer of any stock, to be made really and *bona fide* for a full and valuable consideration actually paid at or before the making such conveyance or transfer without fraud or collusion.

Gifts, &c.  
made after 24  
June, 1736,

Sect. 3 enacts, That all gifts, grants, conveyances,

appointments, assurances, transfers, and settlements whatsoever, of any lands, tenements, or other hereditaments, or of any estate or interest therein, or of any charge or incumbrance affecting or to affect any lands, tenements, or hereditaments. or of any stock, money, goods, chattels, or other personal estate, or securities for money to be laid out or disposed of in the purchase of any lands, tenements or hereditaments, or of any estate or interest therein, or of any charge or incumbrance affecting or to affect the same, to or in trust for any charitable uses whatsoever, which shall at any time from and after the said twenty-fourth day of June 1736, be made in any other manner or form than by this act is directed and appointed, shall be absolutely, to all intents and purposes, null and void.

By 9 Geo. IV. c. 85, intituled "An act for remedying a defect in the titles of lands purchased for charitable purposes," after reciting the act of 9 Geo. II. c. 36, and reciting that the said provision contained in the said recited act, in relation to the purchase of any estate or interest in lands, tenements, or hereditaments, for a full and valuable consideration, was only intended to prevent such purchases from being avoided by reason of the death of the grantor within twelve calendar months after the

sealing and delivery of the deed or deeds relating thereto: And also reciting that it had notwithstanding been generally apprehended that the said last-mentioned provision was intended wholly to exempt such purchases from the operation of the said act, and that in consequence thereof, the formalities by the said act prescribed, in relation to the conveyance of hereditaments to charitable uses, had in divers instances been omitted on purchases for a full and valuable consideration, and that by reason of such omission the title to such hereditaments might be considered defective; it is enacted, that where any lands, tenements, or hereditaments, or any estate or interest therein, have or has been purchased for a full and valuable consideration, in trust or for the benefit of any charitable uses whatsoever, and such full and valuable consideration has been actually paid for the same, every deed or other assurance already made for the purpose of conveying or assuring such lands, tenements, or hereditaments, estate or interest as aforesaid, in trust or for the benefit of such charitable uses, (if made to take effect in possession, for the charitable use intended, immediately from the making thereof, and without any power of revocation, reservation, trust, condition, limitation, clause, or agreement whatsoever, for the benefit of the grantor, or of any person or

Deeds relating to purchase of lands for charitable purposes to be valid, although the formalities prescribed by the recited act have not been duly performed.

persons claiming under him,) shall be as good and valid, and of the same effect, both for establishing derivative titles, and in all other respects, as if the several formalities by the said act prescribed had been duly observed and performed.

Sect. 2 enacts, That nothing in this act contained shall extend to give effect to any deed or other assurance heretofore made, so far as the same has been already avoided by suit at law or in equity, or by any other legal or equitable means whatsoever, or to affect or prejudice any suit at law or in equity actually commenced for avoiding any such deed or other assurance, or for defeating the charitable uses in trust or for the benefit of which such deed or other assurance may have been made.

Act not to extend to deeds avoided by suits at law.

Sect. 3 enacts, That nothing herein contained shall be construed to dispense with any of the said several formalities prescribed by the said recited act, in relation to any deed or other assurance which shall be made after the passing of this present act.\*

Not to dispense with prescribed formalities in future.

\* See note ante page 23.

## CHURCH WARDENS.

THOUGH there is no *general* enactment which specifically exempts Friends from liability to serve the office of Church Warden, yet it has been decided in the Archdeaconry Court of London that they are not compellable to serve or liable to any fine for refusing. *Adey v. Theobald*, 1 Curtis, Eccles: rep. 447.

## MISCELLANEOUS.

### *Discipline or Church Government.*

THE Rules of the Discipline or Church Government of the Society of Friends are clearly recognized and allowed by the laws of England, as appears in the case of their marriages: so also in the case of *Rex v Francis Hart*, on an indictment for a libel, the rules of their discipline were recognized by the judges, who refused to grant an information for a libel, for which, application was made to them, founded on an act of the Society in the course of their disciplinary proceedings, and afterwards, when the defendant was found *guilty*, on an indictment, the court granted a *rule absolute* for a new trial on the first application. The prosecutrix, Mary Jerom, was educated among Friends, at the Town of Nottingham; her parents who lived there, being of that persuasion. She having acted in disobedience to the rules, the usual means by visiting and admonishing, were taken by the Society, but they proving ineffectual, and she absenting herself from the meetings and declaring that she did not look upon herself as one of the body, the Society proceeded in their usual manner to the sentence of expulsion, which was reduced into writing, approved by the Monthly

Meeting, and afterwards read by the defendant as clerk of the meeting, at the close of the meeting for worship at Nottingham, in 1761.

The prosecutrix being acquainted with this proceeding, sent her maid servant to the defendant for a copy of the sentence : who transcribed it, and enclosed it in a cover, directed to Mary Jerom ; who being thus possessed of it, annexed to it an affidavit, and applied to the Court of King's Bench for an information for a libel. But the court rejected the motion, and refused to grant a rule to shew cause. She afterwards, on the 12th of March, 1762, preferred a bill of indictment against the defendant for a libel, before the grand jury at the assizes, held for the Town of Nottingham ; which bill being found by them, was afterwards removed by certiorari into the King's Bench. And the defendant having pleaded *not guilty*, it was tried before Justice Clive, at the Summer assizes at Nottingham, July 30, 1762. The evidence on the part of the prosecution was, the prosecutrix and her servant maid who went for the paper ; and the evidence of the publication of it as a libel, was, the direction of it to the prosecutrix, and the defendant's acknowledgment to the servant that he read it at the meeting. The defendant's counsel called no witnesses ; being of opinion,



that the Quakers, who were the only persons that could give an account of their method of proceeding, were disabled by the statute 7 and 8 Will. III. c. 34,\* from being witnesses on a criminal prosecution; and being restrained from arguing that the paper in question was no libel, by the judge, who said that such a question was more proper to be determined by the court above, could only insist, that the evidence on the part of the prosecution was not sufficient to maintain the indictment. The judge left the case, with its circumstances, to the jury but rather recommended it to them to acquit the defendant. The jury, after withdrawing about three hours, found the defendant *guilty*.

In the Michaelmas Term following, counsel moved the Court of King's Bench for a new trial; and after stating the above mentioned facts, and observing upon the circumstances of hardship which would attend the case on a motion in arrest of judgment, where no facts could be relied on but what appeared on the record, and after a verdict, it might be presumed that a malicious intention to defame the prosecutrix (which was charged in the indictment) was proved, insisted, that the leaving such a case as

\* This disability was removed by the 9 Geo. IV. c. 32, Ante, p. 42.

this to a jury, would be enabling a jury to set up a judgment in opposition to the Legislature, and overturn the Toleration Act, and that therefore the verdict ought to be set aside as a verdict against law. The court was clearly of opinion, that the jury should have been directed to acquit the defendant; and, as notice of the motion was given, and counsel appeared for the prosecution, who did not contradict the abovementioned facts, the court said they would not do so much credit to such a prosecution, as to grant a rule to show cause; and they ordered the verdict to be set aside on the first motion.—*Burn's Ecc. Law*, vol. 2, p. 199.

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*On the non-observance of days of public humiliation and thanksgiving, and of those called Good Friday and Christmas-day.*

It is well known that the Society of Friends have an objection, founded as they believe on Christian principles, to the observance of any religious Fasts or Festivals, and that the consistent members of the Society are in the practice of pursuing their business on these, as on other days, and keeping their shops open. And on one of these festivals (Christmas-day) the mayor of a county town ordered the con-

stable to close the shutters of three shops belonging to Friends, and intimated that the like [course] would be taken in future, also that it was intended to levy a fine for noncompliance on the part of the Friends with the desire or injunction of the magistrates on this head. On this occasion the opinion of Serj<sup>t</sup> Lens was taken, whether such procedure, or the levying of a fine in such case, could be supported by the Common or Statute Law, or even by the Canon Law of England, and his opinion was, That the mayor could not justify shutting up forcibly and against the owner's will, such shops as might not be closed on Christmas day. That he had not been able to find any statute which inflicted a penalty for not duly observing Christmas-day, and that no fine imposed by the magistrates for such purpose, could in itself be effectual: That he was not aware that indictment at Common Law had ever been maintained in such a case, or that the Ecclesiastical Court had ever entertained any complaint against Quakers not acting contumaciously, but from a regard to their own religious notions.

## LOCAL PROVISIONS.

IN several acts (local and personal and private) which have been passed by the Legislature principally of late years, for erecting chapels or other places of worship, collecting certain rates and for other objects, provisions have been introduced, exempting Friends from the offices of churchwardens, collectors, &c. The titles of many of such acts, with the nature of the exemption referred to, are here subjoined: which besides rendering the present compilation more complete may have the effect of inducing Friends in different parts of the country, when any bills for purposes of a similar description, in their own vicinity, are about to be brought into Parliament, wherein such clauses of exemption can with propriety be introduced, to make early application to the solicitors of the bill, and others who are likely to have influence on the occasion; as such provisions can often be much more easily obtained in the early stages of the business, than when the form of the bill, and its several clauses, are more settled.

*Acts containing provisions for exempting Friends  
from being collectors, &c. of Church and other  
Ecclesiastical Rates.*

By 23 Geo. II. c. xxxvi. intituled “ An act for <sup>23 Geo. II.  
c. xxxvi.</sup> settling a stipend upon the rector of the parish called St. George the Martyr, in Southwark, and his successors, in lieu of tithes ;” *Quakers (so called) are exempted from being collectors.*

By 24 Geo. II. c. xv. intituled “ An act to en- <sup>24 Geo. II.  
c. xv.</sup> able the parishioners of the parish called St. Mary, Islington, in the county of Middlesex, to rebuild the church of the said parish ;” *Quakers (so called) are exempted from being collectors.*

By 26 Geo. II. c. xxxviii. intituled “ An act to <sup>26 Geo. II.  
c. xxxviii.</sup> enable the parishioners of the parish of Stone, in the county of Stafford, to re-build the church of the said parish ;” *Quakers (so called) are exempted from being collectors; and collectors are empowered to make distress, by warrant from five trustees, on such as refuse to pay the rates assessed by the act.*

By 26 Geo. II. c. xciv. intituled “ An act to <sup>26 Geo. II.  
c. xciv.</sup> enable the owners of houses and lands in the parish

called St. Botolph, without Aldersgate, and the inhabitants thereof, to repair the church and steeple belonging to the said parish ;” *Quakers (so called) are exempted from being collectors.*

14 Geo. III.  
c. xii.

By 14 Geo. III. c. xii. intituled “ An act for vesting a piece of waste ground, within the manor of Clapham, in the county of Surrey, in trustees, and for enabling them to build a parish church thereon ;” *Quakers (so called) are exempted from being treasurers, clerks, collectors, or receivers.*

19 Geo. III.  
c. lvii.

By 19 Geo. III. c. lvii. intituled “ An act for the better providing a maintenance for the vicar of the parish of the Trinity, in the city of Coventry ;” *Quakers (so called) are exempted from being assessors.*

44 Geo. III.  
c. lxxxix.

By 44 Geo. III. c. lxxxix. intituled “ An act for the relief of certain incumbents of livings in the city of London.” *Sect. 17. Quakers (so called) are exempted from being collectors.*

47 Geo. III.  
c. cxxxii.

By 47 Geo. III. c. cxxxii. intituled “ An act for making better provision for the support and maintenance of the rector, for the time being, of the parish of St. George, the Martyr, Southwark, in the

county of Surrey.” *By Sect. 3. Quakers (so called) are exempted from the office of collecting the rate or assessment, under this act.*

By 54 Geo. III. c. cxi. intituled “An act for <sup>54 Geo. III. c. cxi.</sup> building a new church within the town and parish of Liverpool, in the county Palatine of Lancaster.” *Sect. 24. Quakers (so called) are exempted from being assessors or collectors.*

By 55 Geo. III. c. xlv. intituled “An act for <sup>55 Geo. III. c. xlv.</sup> taking down and re-building the parish church of St. Thomas, in the town of Dudley, in the county of Worcester.” *Sect. 32. Quakers (so called) are exempted from being collectors.*

By 4 Geo. IV. c. cxviii. intituled “An act for <sup>4 Geo. IV. c. cxviii.</sup> extinguishing Tithes, &c. within the London or city liberty of St. Andrew Holborn, in the city of London.” (*Local and personal,*) *s.s. 1 and 2. Friends are exempted from the office of commissioners under this act.*

By 5 Geo. IV. c. xxviii. (*Private act,*) intituled <sup>5 Geo. IV. c. xxviii.</sup> “An act to commute for a corn rent certain tithes and dues payable to the vicar of the parish of Lancaster, in the county of Lancaster.” *Sect. 33.*



*Quakers (so called) are exempted from the office of collector.*

7 Geo. IV.  
c. cxvi.

By 7 Geo. IV. c. cxvi. (*Local and personal*,) intituled "An act for extinguishing tithes, &c. in that part of the parish of St. Botolph without Aldersgate, which is situate in the City of London," &c. *Quakers (so called) are rendered ineligible to act as commissioners, or to fill the office of treasurer, clerk or collector.*

7 & 8 Geo. IV.  
c. xxi.

By 7 and 8 Geo. IV. c. xxi. (*Local and personal*,) intituled "An act to commute for a corn rent the tithes and dues payable to the rector of the parish of Grappenhall in the county Palatine of Chester." *Sect. 33. Quakers (so called) are exempted from being appointed tithe collectors.*

10 Geo. IV.  
c. xiv.

By 10 Geo. IV. c. xiv. (*Local and personal*,) intituled "An act for extinguishing tithes and payments in lieu of tithes, &c. &c. within the parish of Halifax, in the county of York." *Sect. 4. Power is given to the vicar to distrain for money in arrear upon the churchwardens, but if sufficient goods be not found with them he may summon not less than three nor more than twenty of the inhabitants who are in arrear, (not being of the persuasion of*

*the people called (Quakers) to pay the deficiency or to levy it by distraint upon them.*

*Sect. 14. Collectors of rates may be appointed from the householders, but Friends are exempted.*

*Sect. 21. Persons making distress, to render an account of expenses on demand in three days, under a penalty of £10.*

By 4 and 5 Will. IV., c. xviii. intituled “An <sup>4&5 Will. IV. c. xviii.</sup> act to commute for a corn rent the tithes and dues payable to the rectors and vicar of the parish of Kendal, otherwise Kirby Kendal, in the county of Westmoreland.” *Sect. 45 Provides that for the due collection of the annual sum or sums in lieu of tithes and other dues, one or more occupiers of land &c. (not being one of the people called Quakers,) in each of the said townships, shall be appointed yearly to be tithe collectors.*

*Acts wherein Friends are exempted from being Churchwardens, &c.*

By 43 Geo. III. c. cxvii. intituled “An act for <sup>43 Geo. III. c. cxvii.</sup> erecting a new church to be called Christ Church, in the town of Birmingham, in the county of War-

wick, and for providing a maintenance and residence for the minister or perpetual curate thereof." *By Sect. 17, Quakers (so called) are exempted from being churchwardens.*

45 Geo. III.  
c. xli.

By 45 Geo. III. c. xli. intituled "An act to enable his Majesty to grant part of his Majesty's allotment of the disafforested forest or chase of Needwood, in the county of Stafford, for the erection of a church, and the endowment of the minister thereof, and for building and establishing the said church." *By Sect. 17, churchwardens not to be of the people called Quakers.*

45 Geo. III.  
c. xlv.

By 45 Geo. III. c. xlv. intituled "An act for establishing a new church or chapel at Blaenavon in the parish of Lanover, in the county of Monmouth." *By Sect. 14, the church or chapelwardens not to be of the people called Quakers.*

45 Geo. III.  
c. lxxvi.

By 45 Geo. III. c. lxxvi. intituled "An act for building a chapel in the hamlet of Redditch, in the parish of Tardebigg, in the counties of Worcester and Warwick." *By Sect. 24, Chapelwardens not to be of the people called Quakers or Jews.*

48 Geo. III.  
c. xxvii.

By 48 Geo. III. c. xxvii. intituled "An act for

making more effectual provision for maintaining, regulating, and employing the poor of the parish of St. Luke, in the county of Middlesex." *By Sect. 20, Quakers (so called) are exempted from the office of churchwarden.*

By 51 Geo. III. c. lxxix. intituled "An act for <sup>51 Geo. III. c. lxxix.</sup> building and establishing a church or chapel of ease at Buxton, in the county of Derby." *By Sect. 10, Quakers (so called) exempted from the office of church or chapelwarden.*

By 57 Geo. III. c. xxxiv. intituled "An act for <sup>57 Geo. III. c. xxxiv.</sup> making the hamlet of Poplar and Blackwall, in the county of Middlesex, a separate and distinct parish; and for erecting a parish church therein, and other purposes relating thereto." *Sect. 44 contains a provision that Quakers (so called) shall not be eligible to the office of churchwarden in the new parish.*

It will be seen that all these Local Acts exempting Friends from the office of churchwarden, were passed before the decision of the archdeaconry court of London, in the case of *Adey v. Theobald*, vide ante page 166. It now appearing from that decision, that a special exemption is not requisite, there seems no sufficient reason for applying to have such a clause inserted in any future local act of this nature.

*Acts relating to the compounding for parochial rates, &c.*

50 Geo. III.  
c. xlv.

By 50 Geo. III. c. xlv. intituled "An act for better assessing and collecting the poor and other rates in the parish of St. George the Martyr, in the borough of Southwark, in the county of Surrey, and regulating the poor thereof." *In the clause (Sect. 2.) respecting the compounding for parochial rates, it is provided, that the churchwardens and overseers of the poor, may compound with any of the people called Quakers for the poor rates only.*

52 Geo. III.  
c. lxxv.

By 52 Geo. III. c. lxxv. intituled "An act for amending and rendering more effectual several acts for better assessing and collecting the poor and other rates of the parish of St. John of Wapping, in the county of Middlesex; and for more effectually paving, widening, and improving the streets, and other places within and adjoining to the said parish." *In Sect. 5, which empowers the churchwardens and others to compound with the landlords of small houses, &c. for parochial rates, authority is given to enter into such composition "with any of the people called Quakers for the poor rates and watch rates only."*

By 53 Geo. III. c. clxii. intituled “ An act for <sup>53 Geo. III.</sup>  
c. clxii.  
 better assessing and collecting the poor and other rates, in the parish of St. Giles, Camberwell, in the county of Surrey, and regulating the affairs thereof; for repairing or re-building the parish workhouse, and purchasing ground for a cemetery, and for other purposes relating thereto.” *In the clause (Sect. 2) relating to a composition with the landlords of houses under a certain rent, &c. for the parochial taxes, authority is given to compound with any of the people called Quakers for the poor rates and highway duty solely.*

By 54 Geo. III. c. xliii. intituled, “ An act for <sup>54 Geo. III.</sup>  
c. xliii.  
 the better management and relief of the poor in the parish of Lewisham, in the county of Kent, and for better assessing and collecting the parochial rates in the said parish.” *In the clause (Sect. 17) relating to a composition with the landlords of houses, under a certain rent, &c. for the parochial taxes, the power to compound is restricted from extending, in the case of the people called Quakers, to “ Ecclesiastical, or church rates.”*

By 55 Geo. III. c. xevi. intituled “ An act for <sup>55 Geo. III.</sup>  
c. xevi.  
 building a new church, and also a workhouse, in the

parish of Bathwick, in the county of Somerset.” Sect. 33. And be it further enacted, that if any person being one of the people called Quakers, shall be assessed to any rate that shall be made under this act, it shall be lawful for the said trustees, and they are hereby required, to compute and ascertain what proportion the whole of such rate is for or in respect of the building and completing the said new church, and what proportion of the same is for or in respect of the building of the said workhouse, and according to such proportions, to fix and determine what part of the assessment on such Quaker shall be for or in respect of each of the said two purposes, and the collector to be appointed as aforesaid shall thereupon make the demand upon such Quaker for such two parts separately : provided always, that either part of such assessment may and shall be recovered by the same means, and under the same authority, and also may and shall be appealed against in the same manner, as the whole of such assessment might have been, if it had not been so divided.

55 Geo. III.  
c. v.

By 56 Geo. III. c. v. intituled “An act for the better assessing and collecting the poor and other parochial rates in the parish of Mitcham, in the county of Surrey.” Sect. 1. *In this clause which*



*relates to compounding for rates, it is provided that with any of the people called Quakers the composition shall be for the poor's rates only.*

By 56 Geo. III. c. lvi. intituled “An act for <sup>56 Geo. III. c. lvi.</sup> enlarging the church-yard of the parish of St. George the Martyr, in Southwark, in the county of Surrey, and for other purposes relating thereto.” *Sect. 46. Persons compounding for the poor rates shall be deemed to compound for the rate or rates under the present act, but with this provision, that any of the people called Quakers may claim to be considered as compounding for the poor rates only.*

By 58 Geo. III. c. xxii. intituled “An act for <sup>58 Geo. III. c. xxii.</sup> enlarging the church-yard of the parish of Chipping Barnet, in the county of Hertford, and for other purposes relating thereto.” *By Sect. 53, it appears that Quakers (so called) may compound for the poor's rate, without being considered as compounding for the rate under this act.*

*Note—This must be the meaning, but the clause is not accurately worded.*

By 1 and 2 Will. IV. c. iv. intituled “An act <sup>1 & 2 Will. IV. c. iv.</sup> for settling disputed rights respecting tithes within the parish of Ashton-under-Lyne, in the county

Palatine of Lancaster, and for fixing certain annual payments in lieu thereof." (*Local and personal.*) *Sect. 2 provides for the regular payment of the yearly rents to the rector and his successors on a certain day in the year by the owners or occupiers of farms, lands, and tenements chargeable with the said yearly rents, and every such owner or occupier making default of such payment on the day appointed, not being one of the people called Quakers, shall forfeit and pay the sum of two shillings and sixpence in addition to the said respective yearly rents or sums.*

3 Will. IV.  
c. xxxiii.

By 3 Will. IV. c. xxxiii. intituled "An act to alter and amend an act of the 53 Geo. III. for better assessing and collecting the poor and other rates in the parish of Saint Giles, Camberwell, in the county of Surrey and regulating the affairs thereof and for other purposes relating thereto. (*Local and personal.*) *Sect. 4 Relates to a composition with the landlords of houses under a certain rent, &c. for the parochial taxes, in which authority is given to compound with any of the people called Quakers for the poor rates and highway duty only.*

*See also Sect. 5 to the same purport.*





## I N D E X.

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ABJURATION, see Oaths.

AFFIRMATION,

Friends instead of oaths to make affirmation, 32, 43.

form of affirmation, 44.

penalty for false affirmation, 33, 41, 43.

affirmation for persons who have been Friends, 47, 48.

See Oaths, Seceders.

ALLEGIANCE, see Oaths.

ANNUAL TRAINING,

certain persons not exempt, 104.

Friends, on production of certificate, exempted on payment of fine, 105.

form of such certificate, 84, note.

fine to be levied by distress, 106.

if no goods, Friends may be committed, 106.

justices may appoint deputies to Friends who are constables, &c., 106.

general and subdivision meetings may appoint constables out of persons exempt from service, 107.

APPRENTICE,

not exempt from annual training, 104.

exempt from the regular militia, 90.

ARTICLED CLERK,

not exempt from annual training, 104.

exempt from the regular militia, 90.

BAGGAGE,

conveyance of, 124.

penalties, 125.

BIRTHS, see Registers.

BURIAL REGISTERS,

particular provision for those of Friends being evidence in a certain case, 152.

CHARITABLE DONATIONS,

Friends exempted from registering of, 158.

## CHARITIES,

for the education of the poor, 158, 159.

Friends exempted from the inquiries of the Commissioners, 159.

act not to extend to institutions or societies for charitable purposes, principally supported by voluntary contributions, 159.

no lands or personal estate to be laid out in lands to be given or settled to any charitable use, unless by deed twelve months before the death of the donor or grantor and enrolled, 160.

if stock, to be transferred six months before death, 161, 162.  
death of donor or grantor not to affect purchases for a valuable consideration, 162.

gifts, &c. contrary to the provisions of the act to be void, 162.

purchases for valuable consideration rendered valid, though not enrolled, 163.

act not to give effect to any assurance avoided by law, nor to affect any suit then pending, 165.

not to extend to future purchases, 165.

CHRISTIAN BELIEF, see Declaration.

## CHRISTMAS DAY,

note relative to the observance of, 170.

## CHURCH RATES AND OTHER ECCLESIASTICAL DEMANDS,

particular exemptions of Friends in being collectors, 173.

provisions relating to compounding for, 180.

meeting-houses exempted from poor and church rates, 19.

payment of poor rates to qualify for voting in election of guardians of the poor, 67.

See Tithes.

## CHURCHWARDENS,

Friends not compellable to serve, 166.

particular exemptions of Friends, 177.

## CONSTABLES,

exempt from military service, 90, 112.

See Annual Training, Baggage, Militia, Local Militia.

CORPORATIONS, see Offices.

DEATHS, see Registers.

DECLARATION,

- against popery, 7, note
- against transubstantiation, 30, note.
- of fidelity, 39.
- of Christian belief, 8.
- of affirmation, 44, 48.
- to the effect of the oath of abjuration, 45.

See Offices.

DEPUTY LIEUTENANTS, Annual Training, Local Militia, Militia.

DISCIPLINE,

- meetings of, recognised, 5, note.

DISTRESS,

- cost of, for tithe and Church rates under £20. limited, 67.
- table of costs, 69.

See Annual Training, Local Militia, Militia, Tithes.

DIVINE SERVICE.

- laws for, in force, 11.

ECCLESIASTICAL COURTS,

- excommunication discontinued, 65, note.

See Tithes.

EDUCATION OF THE POOR,

- Commissioners to enquire concerning charities for, 158, 159.

FAST DAYS, &c. See Christmas Day.

FIDELITY. See Declaration, Oaths, Toleration.

GOOD FRIDAY. See Christmas Day.

GUARDIANS OF THE POOR. See Poor and other Rates.

IMPRISONMENT for ecclesiastical demands abolished, 70.

JUSTICES OF THE PEACE,

- may require persons to take the oaths, &c. mentioned in the Act of Toleration, 6.
- may appoint deputies to Friends who are constables for military purposes, 86, 106, 109.
- may levy by distress the amount of military rates, 89, 101, 106, 112.
- may require disaffected persons to take the oaths, 34.
- may summon Friends refusing to pay tithes, 56, 59.
- may levy amount by distress, 57, 60.



appeal against order of, to quarter sessions, 57.

See Annual Training, Local Militia, Militia, Oaths,  
Tithes.

LOCAL ACTS,

provisions in, relating to Friends, 172.

LOCAL MILITIA,

provisions of other acts to extend to, 107.

men to be balloted for, out of militia lists, 108.

penalty for neglecting to appeal to lists, 109.

justices may appoint deputies to Friends who are constables, &c., 109.

parishes may offer volunteers, 110.

rate may be made for paying volunteers, 110.

justice to levy amount of rate by distress, 112.

costs against Friends refusing to pay rate, 120.

who shall be deemed Friends, 120.

certain persons exempt from rate, 112.

persons aggrieved by rate may appeal, 112.

certain persons exempt from service, 112.

persons having paid fine, or suffered distress, how long exempt, 113.

persons chosen, unfit for service, exempted, 121.

persons balloted, and not appearing, to be fined, 113.

finer to exempt for two years, 115.

persons claiming exemption on payment of smaller fines, 115.

declaration that they have not insured against fine, 116.

penalty for insuring, 116, note.

Friends on production of certificate, not to be enrolled, but subjected to certain fines, 117.

form of such certificate, 84, note.

finer to be levied by distress, 118.

if no goods or chattels, deputy-lieutenants, &c. may commit the Friend to prison, 119.

persons to serve where their names are first inserted in the lists, 119.

mode of providing carriages, 121.

overseers to pay sums for men deficient out of poor rates, 122.

persons aggrieved may appeal, 122, 123.

lists not irregular on account of mistakes of names, 123.  
in Scotland, 107, note.

LONDON,

militia of, 98.

MARRIAGE,

several marriage acts not to extend to Friends, 127, 128.

Friends may solemnize marriages according to their usages,  
128.

such marriage good in law, 128.

notice in the form given in the act, to be given to the Superintendent Registrar of the District within which the parties shall have dwelt for not less than seven days, or if living in different districts, to the Superintendent Registrar of each district, 128.

form of notice, 134.

Superintendent Registrar to file and preserve such notices, and enter a copy in a book called the Marriage Notice Book, 129.

book open to inspection without fee, 130.

Superintendent Registrar to give certificate of such notice, 130.

issue of certificate may be forbidden, 131.

no marriage, except by license, to be solemnized till twenty-one days after notice, 131.

if by license, not till seven days after notice, 132.

if marriage not had till three months after notice all the proceedings void, 132.

Superintendent Registrars certificate, or if notice in two districts, the certificate of each Superintendent, or license, if any, to be delivered to the Registering Officer of Friends for the place where the marriage is solemnized, 132.

persons unduly solemnizing marriages guilty of felony, 133.

Friends marriages may be solemnized in a District in which neither party resides, 135.

declaration that all marriages among Friends prior to 1st of Seventh Month, 1837, were and are good in law, 136.

See Registers.

MEETINGS,

Disturbers of, how punished, 11, 17.

for discipline, may be select, 5, note.  
 act relating to religious assemblies not to extend to Friends, 15.  
 seditious meetings, exceptions, 15.  
 exemption from turnpike tolls in attending usual place of  
 worship, 17.  
 no exemption within five miles of Royal Exchange or  
 Westminster Hall, 18.

See Meeting Houses, Toleration.

#### MEETING HOUSES,

not to be locked, &c. during time of meeting, 4.  
 to be certified at the quarter sessions, 12.  
 note respecting certifying, 15.  
 where no trust declared of meeting houses, &c., usage for  
 twenty-five years to be evidence, 21.  
 conveyances of meeting houses and burial grounds or of land  
 for these purposes on the first acquisition thereof to be  
 enrolled, 23.  
 purchases for these purposes prior to 9 Geo. IV. c. 85, per-  
 fected, 23.  
 exempted from poor and church rates, 19.

See Toleration, Mortmain, Charities.

#### MILITIA,

Notice to house-keepers to deliver lists of persons, 82.  
 penalty on not delivering lists, 83.  
 Friends exempted from making return on producing certi-  
 ficate, 84.  
 form of certificate, 84, note.  
 persons aggrieved by the lists may appeal, 85.  
 penalty on neglecting to appeal, 86.  
 justices may appoint deputies to Friends who are constables,  
 &c., 86.  
 parishes may offer volunteers without balloting, 88.  
 overseers may make a rate for payment of bounties to  
 volunteers, 88.  
 on refusal to pay rate, a justice may levy the same, 89.  
 persons exempted from payment of rate, 89.  
 persons aggrieved by the rate may appeal, 89.  
 costs allowed on levying distress on Friends, 92.

- who shall be deemed Friends, 92.
- certain persons exempted from service, 90.
- persons infirm or short of size, 93.
- Friends being balloted, deputy-lieutenants to provide substitutes, and levy the expense, 90.
- sum agreed to be given to any substitute, to be paid by the overseer, and to be repaid to him by distress, 93.
- if sufficient distress cannot be found, deputy-lieutenants may commit, 91.
- oppressive measures in making distress, 92.
- one-half of the value of a substitute to be repaid to certain persons, 95.
- overseers to pay fines for men deficient, out of the poor rate, 96.
- mode of providing carriages, 94.
- militia of the Tower Hamlets, 97.
- City of London, 98.
- Stannaries in Devon and Cornwall, 103.
- Scotland, 82, note.

#### MINERS in Cornwall, &c.

- provision respecting Friends, 103.

#### MORTMAIN ACT,

- applies to the first acquisition of meeting houses and burial grounds or of land for these purposes, 23.

See Charities, Meeting Houses.

#### NONCONFORMISTS,

- certain acts relating to, repealed, 1, note, 14.
- persons taking certain oaths, &c., not liable to prosecution, 4.
- laws against nonconformists in force, unless persons go to some assembly authorized by law, 11.
- provisions respecting persons scrupling the taking of oaths, 7.

See Oaths.

#### NONPAROCHIAL REGISTERS,

- certain registers to be deposited with the Registrar General, 154.

Commissioners on Registers to certify and identify the registers deposited, 154.

Registrar General to make lists of the registers, to allow searches, and give certified extracts, 155.

Registers deemed to be in legal custody, and receivable in evidence, 156.

Registrar General to produce same on order of any competent court, 156.

Friends registers in custody of Registrar General, 157.

#### OATHS,

persons taking certain oaths, &c., not liable to the penalties enacted against nonconformists, 3, 4.

justices authorized to require any person going to meetings, to make declaration against popery, and take certain oaths, 6.

penalty for refusal, 6.

how purged after refusing to take the oaths, 9.

every person to take the oath of allegiance, 24.

refusal, 24.

penalties repealed, 24, note.

persons refusing, incapable of any office, &c., 25.

oaths repealed and others appointed, 25.

to be taken by the same persons as were required to take the abrogated oaths, 25.

before whom oaths are to be taken, 24, 25.

persons in office to take the oaths, 26.

penalties for refusing to take the oaths, 26, 29, 35.

penalty for refusing the declaration against popery, 28.

certain penalties repealed, 25, note.

parish officers refusing oaths, allowed to act by deputy, 29.

persons practising law, &c., 29.

Friends subscribing the declaration of fidelity exempted from penalties, 31.

form of declaration of fidelity, 39.

persons refusing oaths, or Friends refusing to make the declaration of fidelity and affirmation to the effect of the oath of abjuration, to have no vote at elections, 31, 35.

Friends allowed to make affirmation instead of an oath, 32, 42.

exceptions, 33, 42.

- penalty for false affirmation, 33, 41, 43.
- justices may require disaffected persons to take the oaths, 34.
- penalties for refusal, 34.
- Friends declaring on their affirmation to the effect of the abjuration oath, not liable to penalties, 36.
- affirmation instead of abjuration oath, 36, 39, 44.
- authority for administering affirmation, &c., 40.
- persons having neglected to take oaths, &c., indemnified, 41, note.
- affirmation to be taken in all cases, civil or criminal, instead of an oath, 42.
- affirmation of Friends permitted in all cases where an oath is required, without any exception, 43.
- form of affirmation as now settled, 44.
- form of affirmation in lieu of oath of abjuration as now settled, 45.
- persons who have ceased to be Friends permitted to make affirmation, 47.
- form of such affirmation, 48.
- proceedings of the House of Commons in 1833, on a Friend applying to sit on his affirmation, 46.
- See Justices, Nonconformists, Toleration, Offices.

#### OFFICES,

- repeal of acts requiring persons qualifying for offices to take the Sacrament of the Lord's Supper, and enacting declaration to be made instead thereof, 49.
- relieving persons appointed sheriff from the declaration, 49.
- persons elected mayor, alderman, councillor, auditor or assessor, for any borough, to make declarations, 50.
- persons elected to any corporate office may resign on payment of fine, 51.
- no person enabled to make affirmation instead of oath, liable to fine for nonacceptance of office in any borough by reason of his refusing to take an oath, or make any declaration required, or to undertake the duties, 52.
- form of declaration in lieu of the sacramental test to be made by Friends or separatists on taking office in municipal corporations, 52.

same form may be used by Friends or Separatists on taking other specified offices, 53.

these provisions not obtained at the instance of Friends, 55, note.

OVERSEERS. See Local Militia, Militia.

PAROCHIAL RATES,

acts relating to compounding for, 180.

POPERY. See Declaration.

POOR MEN,

certain poor men exempt from military service, 90, 112.

POOR. See Charities.

POOR and other RATES,

meeting houses exempted from poor and church rates, 19.

payment of poor rates to qualify for voting in election of guardians of the poor, 67.

local acts relating to compounding for, 180.

PREMUNIRE,

explanation, 24, note.

REGISTERS,

father or mother of every child born, or occupier of house in which a child shall have been born, shall within forty-two days give information to the Registrar of the District, 137.

children born at sea, 137.

no Registrar to register a birth after forty-two days, except within six months, on a solemn declaration of the particulars, and in the presence of the Superintendent Registrar, 138.

births not to be registered after six months, 139.

some person present at death or in attendance during illness, or occupier of the house, or some inmate of it, within eight days to give information to the Registrar, 140.

in case of an inquest, jury to inquire the particulars, and the coroner to inform the Registrar, 141.

registry of persons dying at sea, 141.

Registrar to give to undertaker or other person having charge of funeral, a certificate of the registry, 142.



- if buried without such certificate, the person who shall bury to give notice to Registrar, 142.
- in case of an inquest, coroner may order body to be buried before registry, 142.
- penalty on burying without a certificate, and omitting within seven days to give notice, 142.
- informant of any birth or death to sign name, &c., in Register, 143.
- Registrar General to furnish to every person whom the Recording Clerk of Friends shall certify to be a registering officer of the Society, Marriage Register Books, and forms for certified copies, 143.
- Registering Officer of Friends shall, immediately on a marriage in his District, register the particulars in two of the said books, 144.
- Registering Officer to make and deliver to the Superintendent Registrar quarterly, a copy of all the entries of marriages in the books, and if no entry, to certify that fact, 145.
- penalty for neglect, 151.
- when Register Books filled, to deliver one to the Superintendent Registrar, and the other to be under the care of Friends, 146.
- Registering Officer to allow searches to be made in the Register Books, and give certified copies of any entry therein, 147.
- Superintendent Registrar to make and keep indexes of the Register Books in his office, to allow searches, and give certified copies of entries, 147.
- Registrar General the like, 148.
- penalty for persons giving false information relative to any birth, death or marriage, 148.
- penalty for not duly registering any marriage, birth or death, or losing or injuring Registers, 149.
- penalty for destroying or falsifying Register Books, 149.
- accidental errors may be corrected, 150.
- certificates of burials of Friends to be admitted in certain cases, 152.

See Non Parochial Registers.

who are required to tender and administer such oaths and declaration, 3.

persons taking said oaths and declaration not liable to prosecution for nonconformity, 4.

justices may require persons to take said oaths, &c., 6.

persons scrupling the taking an oath, how exempted, 7.  
how purged after refusal, 9.

disturbers of meetings, how punished, 11.

toleration confirmed, 12.

benefit of the act of Toleration extended, 13.

persons who have omitted to take oaths and declarations indemnified, 9, note.

See Nonconformists, Oaths.

**TOLLS,**

exemption from turnpike tolls in attending usual place of worship, 17.

no exemption within five miles of Royal Exchange or Westminster Hall, 18.

**TOWER HAMLETS,**

militia of the, 97.

**TRANSUBSTANTIATION.** See Declaration.

**WARRANT.** See Justices, Local Militia, Militia, Tithes.





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